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No. 38] NEW DELHI, SEPTEMBER 13—SEPTEMBER 19, 2015, SATURDAY/BHADRA 22—BHADRA 28, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 11 सितम्बर, 2015

का.आ. 1812.—वित्तीय आस्तियों का प्रतिभूतिकरण एवं पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन अधिनियम, 2002 की धारा 21 की उप-धारा 1 के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अशोक कुमार रलहन को संपत्तियों पर सृजित प्रतिभूति, वित्तीय आस्तियों के पुनर्गठन तथा प्रतिभूति हित के अंतरणों के पंजीकरण के प्रयोजन से 65000-78000/-रुपए के वेतनमान में उनके प्रदत्त गृहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा उनके अधिवर्षिता की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय प्रतिभूतिकरण, परिसंपत्ति पुनर्निर्माण और प्रतिभूति स्वत्व की केन्द्रीय रजिस्ट्री (सीईआरएसआई) के पंजीयक एवं प्रबंध निदेशक तथा मुख्य कार्यपालक अधिकारी (केन्द्रीय पंजीयक) के पद पर नियुक्त करती है।

[फां.सं. 3/5/2014-रिकवरी]
वी.वी.एस. खड़ायत, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 11th September, 2015

S.O. 1812.—In exercise of the powers conferred under sub-section 1 of section 21 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Central Government hereby appoints Shri Ashok Kumar Ralhan, as Registrar and Managing Director and Chief Executive Officer (Central Registrar), Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI), in the pay scale of Rs. 65000-78000/-, for the purpose of registration of transactions relating to securitisation, reconstruction of financial assets and security interest created over the properties, for a period of 3 years with effect from the date of assumption of charge or till he attains the age of superannuation or until further orders, whichever is the earliest.

[F.No. 3/5/2014-Recovery]
V.V.S. KHARAYAT, Under Secy.

नई दिल्ली, 14 सितम्बर, 2015

का.आ. 1813.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री आलोक टंडन, संयुक्त सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को श्री अनूप वधावन के स्थान पर तत्काल प्रभाव से अथवा अगले आदेश होने तक भारतीय बीमा विनियामक और विकास प्राधिकरण के अंशकालिक सदस्य के रूप में नियुक्त करती है।

[फांस् 11/6/2003-बीमा-III (आंशिक फाईल)]

एन० श्रीनिवास राव, निदेशक (बीमा)

New Delhi, the 14th September, 2015

S.O. 1813.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Shri Alok Tandon, Joint Secretary, Department of Financial Services, Ministry of Finance as part-time member of the Insurance Regulatory and Development Authority of India with immediate effect and until further orders *vice* Shri Anup Wadhwan.

[F.No. 11/6/2003-Ins.III (Part file)]

N. SRINIVASA RAO, Director (Insurance)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 14 सितम्बर, 2015

का.आ. 1814.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए हरियाणा राज्य सरकार, गृह विभाग, चंडीगढ़ के दिनांक 28.8.2015 की अधिसूचना सं० 20/10/2015-3 एचजी० I द्वारा प्राप्त सहमति से पुलिस स्टेशन मानेसर, जिला गुडगांव में भा० सं० 1973 का धारा 420, 465, 467, 468, 471 और 120-बी तथा भ्रष्टाचार निवारण अधिनियम 1988 की धारा 13 के तहत दर्ज एफआईआर सं० 510 दिनांक 12.08.2015 तथा उनसे संबंधित अपराधों, दुष्प्रेरणाओं और षड्यंत्रों या उसी संव्यवहार के भाग के रूप में किए गए अथवा उन्हीं तथ्यों से उत्पन्न अपराध या अपराधों एवं उपर्युक्त अपराधों में किए गए प्रयासों, दुष्प्रेरणाओं और षड्यंत्रों तथा उसी संव्यवहार में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या उपराधों से संबंधित जांच के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त हरियाणा राज्य में करती है। यह दिनांक 01.09.2015 की फाईल संख्या 228/39/2015-एवीडी-II द्वारा जारी की गई अधिसूचना के अधिक्रमण में है।

[फांस् 228/39/2015-एवीडी-II]

अजीत कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 14th September, 2015

S.O. 1814.—In exercise of the powers conferred under sub-section (1) of section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946),

the Central Government with the consent of the Notification No. 20/10/2015-3 HG-I dated 28.8.2015 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of FIR No. 510 dated 12.8.2015 u/s 420, 465, 467, 468, 471 and 120-B IPC and section 13 of the Prevention of Corruption Act, 1988, Police Station Manesar, Distt, Gurgaon and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts. This is in supersession of previous notification issued vide File No. 228/39/2015-AVD II dated 01.09.2015.

[F.No. 228/39/2015-AVD-II]

AJIT KUMAR, Under Secy.

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1815.—केन्द्र सरकार, दंड प्रक्रिया संहिता 1973 (1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय अन्वेषण ब्यूरो के अभियोजन अधिकारी श्री विपीन कुमार को दिल्ली विशेष पुलिस स्थापना द्वारा विचारण न्यायालयों में आरंभ किए गए मामलों और अपीलों, संशोधनों या किसी राज्य या संघ शासित क्षेत्र में विधि द्वारा स्थापित संशोधन न्यायालय या अपील न्यायालय जिसके लिए उक्त धारा के प्रावधान लागू होंगे, में इन मामलों से उत्पन्न होने वाले अन्य मामलों के संचालन के लिए विशेष सार्वजनिक अभियोक्ता नियुक्त करती है।

[सं० 225/16/2015-एवीडी-II]

अजीत कुमार, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1815.—In exercise of the powers conferred by sub-section (8) of section 24 of Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Vipin Kumar, Prosecuting Officer of Central Bureau of Investigation as Special Public Prosecutor for the conduct of cases instituted by the Delhi Special Police Establishment in trial courts and appeals, revisions or other matters arising out of these cases in Court of revision or Court of appeal, established by law in any State or Union Territory to which the provisions of the said section apply.

[F.No. 225/16/2015-AVD-II]

AJIT KUMAR, Under Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 17 सितम्बर, 2015

का.आ. 1816.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में दक्षिण पूर्व मध्य रेलवे के स्वास्थ्य केन्द्र, इतवारी, नागपुर मंडल तथा स्टेशन प्रबंधक (राजपत्रित), रायपुर स्टेशन कार्यालय, रायपुर मंडल, जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

[सं० हिन्दी-2015/रा.भा.-1/12/2]

के. पी. सत्यानंदन, निदेशक, राजभाषा

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 17th September, 2015

S.O. 1816.—Ministry of Railways (Railway Board) in pursuance of Sub Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the Official purposes of the

Union) hereby, notify the Health Unit, Itwari, Nagpur Division and office of Station Manager (Gazetted), Raipur Station, Raipur Division of South East Central Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi.

[No. Hindi-2015/OL-1/12/2]

K. P. SATHYANANDAN, Director(OL)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 26 अगस्त, 2015

का.आ. 1817.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम बड़े पैमाने पर	मुहरांकन शुल्क छोटे पैमाने पर	इकाई दर सलैब 1 (रु)	सलैब में इकाईयां	शेष	प्रचालन तिथि
902	-	-	1992	अग्नि शमन कार्यों के लिए चूषण होज युग्मन-विशिष्ट	एक पीस	64200.00	51400.00	11.00	सभी	-	28.7.2015

[संदर्भ: सीएमडी-II/16:902]

सी०के० महेश्वरी, वैज्ञानिक जी एवं उपमहानिदेशक (प्रमाणन)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 26th August, 2015

S.O. 1817.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking Fee for the product given in the schedule.

SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Large Scale	Marking Fee Small Scale	Unit Rate Slab-1	Units in Slab-1	Remain- ing	Effective Date
902	—	—	1992	Suction Hose Couplings for fire fighting purposes-specification	1 No.	64200.00	51400.00	11.00	All	—	28-07-2015

[Ref.: CMD-2/16:902]

C.K. MAHESHWARI, Sc. G & DDG (Certification)

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1818.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क बड़े पैमाने पर	न्यूनतम मुहरांकन शुल्क छोटे पैमाने पर	इकाई दर सलैब 1 में इकाईयां (रु)	शेष	प्रचालन तिथि
952	-	-	2012	फायर ब्रिगेड में प्रयोग होने वाले फाग नौजल-विशिष्ट	एक पीस	56000.00	44800.00	8.80	सभी	- 28.7.2015

[संदर्भ: सीएमडी-II/16: 952]

सी०के० महेश्वरी, वैज्ञानिक जी एवं उपमहानिदेशक (प्रमाणन)

New Delhi, the 27th August, 2015

S.O. 1818.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the product given in the schedule.

SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee Large Scale	Minimum Marking Fee Small Scale	Unit Rate Slab-1	Units in Slab-1	Remain- ing	Effective Date
952	—	—	2012	Fog Nozzle for Fire Brigade use-Specification	1 No.	56000.00	44800.00	8.80	All	—	28-07-2015

[Ref.: CMD-2/16: 952]

C.K. MAHESHWARI, Sc. G & DDG (Certification)

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1819.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क बड़े पैमाने पर	न्यूनतम मुहरांकन शुल्क छोटे पैमाने पर	इकाई दर सलैब 1 में इकाईयां (रु)	शेष	प्रचालन तिथि
907	-	-	1984	अग्नि शमन प्रयोजनार्थ बेलनाकार प्रकार के सैंकशेन स्ट्रेनर की विशिष्टि-(दूसरा पुनरीक्षण)	एक पीस	61000.00	48800.00	6.40	सभी	- 28.7.2015

[संदर्भ: सीएमडी-II/16 : 907]

सी० के० महेश्वरी, वैज्ञानिक जी एवं उपमहानिदेशक (प्रमाणन)

New Delhi, the 27th August, 2015

S.O. 1819.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the product given in the schedule.

SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee Large Scale	Minimum Marking Fee Small Scale	Unit Rate Slab-1	Units in Slab-1	Remain- ing	Effective Date
907	—	—	1984	Specification for Suction Strainers, Cylindrical type for fire fighting purposes	1 No.	61000.00	48800.00	6.40	All	—	28-07-2015

[Ref.: CMD-2/16:907]

C.K. MAHESHWARI, Sc.G&DDG (Certification)

कोयला मंत्रालय

नई दिल्ली, 17 सितम्बर, 2015

का.आ. 1820.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का० आ० 13 (अ), तारीख 30 दिसम्बर, 2014 जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 01 जनवरी, 2015 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) में खनिज के खनन, खदान, बोर करने, उनकी खुदाई करने और खनिजों को प्राप्त करने के लिए तलाश करने, उन पर कार्य करने और उन्हें ले जाने के लिए अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं;

और केन्द्रीय सरकार का यह समाधान हो गया है, कि सेंट्रल कोलफील्ड्स लिमिटेड, रांची, झारखंड (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में या उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 1 जनवरी, 2015 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो जाएंगे, अर्थात्:-

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;

2. शर्त (1) के अधीन, उक्त सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार, इस प्रकार निहित उक्त भूमि में, के अधिकारों के लिए या उनके संबंध में अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;

3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;

4. सरकारी कंपनी के पास केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों में इस प्रकार निहित पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का, पालन करेगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा० सं० 43015/8/2013-पीआरआईडब्ल्यू-I]

सुजीत कुमार, अवर सचिव

MINISTRY OF COAL

New Delhi, the 17th September, 2015

S.O. 1820.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, Number S.O. 13 (E), dated the 30th December, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 1st January, 2015, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi, Jharkhand (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the all rights in or over the said land so vested shall with effect from 1st January, 2015, instead of continuing to so vest in the Central Government shall vest in the Government Company, subject to the following terms and conditions, namely:—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;

2. A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the said Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in the said land, so vested, shall also be borne by the Government Company;

3. The Government Company shall indemnify the Central Government its officials against any other expenditure that may be necessary in connection with any proceedings by

or against the Central Government or its officials regarding the aforesaid rights in the land so vested;

4. The Government Company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other persons without the prior approval of the Central Government; and

5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F.No. 43015/8/2013-PRIW-I]
SUJEET KUMAR, Under Secy.

नई दिल्ली, 17 सितम्बर, 2015

का.आ. 1821.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का०आ० 2562(अ), तारीख 29 सितम्बर, 2014, जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) तारीख 30 सितम्बर, 2014 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) में खनिज के खनन, खदान, बोर करने, उनकी खुदाई करने और खनिजों को प्राप्त करने के लिए तलाश करने, उन पर कार्य करने और उन्हें ले जाने के लिए अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं;

और केन्द्रीय सरकार का यह समाधान हो गया है, कि सेंट्रल कोलफील्ड्स लिमिटेड, रांची, झारखंड (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में या उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 30 सितम्बर, 2014 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो जाएंगे, अर्थात्:—

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
2. शर्त (1) के अधीन, उक्त सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की

सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार, इस प्रकार निहित उक्त भूमि में के अधिकारों के लिए या उनके संबंध में अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;

3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
4. सरकारी कंपनी के पास केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों में इस प्रकार निहित पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा० सं० 43015/25/2012-पीआरआईडब्ल्यू-I]

सुजीत कुमार, अवर सचिव

New Delhi, the 17th September, 2015

S.O. 1821.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, Number S.O. 2562 (E), dated the 29th September, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 30th September, 2014, issued under sub-section (1) of section 9 of the Coal Bearing areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi, Jharkhand (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the all rights in or over the said land so vested shall with effect from the 30th September, 2014, instead of continuing to so vest in the Central Government shall vest in the Government Company, subject to the following terms and conditions, namely:—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as

determined under the provisions of the said Act;

2. A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amount payable to the Central Government by the said Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in the said land, so vested, shall also be borne by the Government Company;
3. The Government Company shall indemnify the Central Government its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in the said land so vested;
4. The Government Company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other persons without the prior approval of the Central Government; and
5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F.No. 43015/25/2012-PRIW-I]
SUJEET KUMAR, Under Secy.

नई दिल्ली, 17 सितम्बर, 2015

का.आ. 1822.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का०आ० 1527(अ), तारीख 9 जून, 2015 जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 10 जून, 2015 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) और ऐसी भूमि में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं;

और केन्द्रीय सरकार को यह समाधान हो गया है कि सेंट्रल कोलफील्ड्स, लिमिटेड, रांची, झारखंड (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद हैं;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम, 1957 की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित भूमि में या उस पर के सभी अधिकार केन्द्रीय

सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 10 जून, 2015 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो गए हैं अर्थात्:—

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकार, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
2. सरकारी कंपनी, द्वारा शर्त (1) के अधीन, उक्त सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;
3. सरकारी कंपनी केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्ही कार्यवाहियों के संबंध में आवश्यक हो;
4. सरकारी कंपनी, के पास केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों में पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का, पालन करेगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा० सं० 43015/17/2012-पीआरआईडब्ल्यू-I]
सुजीत कुमार, अवर सचिव

New Delhi, the 17th September, 2015

S.O. 1822.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 1527 (E), dated the 9th June, 2015, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii), dated the 10th June, 2015, issued under sub-section (1) of section 9 of the Coal Bearing areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the said lands described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi, Jharkhand (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as

the Central Government thinks fit to impose in this behalf,

Now therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the land and all rights in or over the said land so vested shall with effect from the 10th June, 2015, instead of continuing to so vest in the Central Government shall vest in the Government Company, subject to the following terms and conditions, namely:—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the said Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with rights, in the said land, so vested shall also be borne by the Government Company;
3. The Government Company shall indemnify the Central Government its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in the said land so vested;
4. The Government Company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other persons without the prior approval of the Central Government; and
5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F.No. 43015/17/2012-PRIW-I]

SUJEET KUMAR, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 25 जून, 2015

का.आ. 1823.—भारतीय चिकित्सा परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय चिकित्सा परिषद का पुनर्गठन किया गया था।

भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) (ख) के उपबंध के अनुपालन में, भारत के राजपत्र दिनांक 05.11.2013 की अधिसूचना द्वारा डॉ॰ एस॰

बालासुब्रमणियन, प्रोफेसर मेडिसन, राजा मुथैया मेडिकल कॉलेज का चयन अन्नामलाई विश्वविद्यालय, अन्नामलाई नगर, तमिलनाडु की ओर से भारतीय चिकित्सा परिषद के सदस्य के रूप में किया गया था।

अन्नामलाई विश्वविद्यालय, अन्नामलाई नगर, तमिलनाडु ने सूचित किया है कि डॉ॰ एस॰ बालासुब्रमणियन, प्रोफेसर मेडिसिन कॉलेज, जो आईएमसी अधिनियम, 1956 की धारा 3(1) (ख) के तहत अन्नामलाई विश्वविद्यालय, अन्नामलाई नगर का प्रतिनिधित्व कर रहे हैं, ने व्यक्तिगत कारणों से अपना त्यागपत्र दे दिया है। अतः आईएमसी अधिनियम, 1956 की धारा 3(1) (ख) के तहत डॉ॰ एस॰ बालासुब्रमणियन को अन्नामलाई विश्वविद्यालय, अन्नामलाई तमिलनाडु का प्रतिनिधित्व करने वाले भारतीय चिकित्सा परिषद की सदस्यता को समाप्त कर दिया गया है।

अतः वर्तमान में आईएमसी अधिनियम, 1956 के उपबंध के अनुपालन में डॉ॰ एस॰ बालासुब्रमणियन, अन्नामलाई विश्वविद्यालय, अन्नामलाई नगर, तमिलनाडु के प्रतिनिधित्व में भारतीय चिकित्सा परिषद की सदस्यता को 25.06.2015 से समाप्त माना जाएगा।

[सं॰ वी-11013/02/2015-एमईपी-1]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: मूल अधिसूचना दिनांक 9 जनवरी, 1960 के सांख्यिक संख्या 138 द्वारा भारत सरकार की राजपत्र अधिसूचना में प्रकाशित हुई थी और उक्त अधिसूचना को भारतीय चिकित्सा परिषद (संशोधन) द्वितीय अध्यादेश, 2013 (2013 का 11) में अंतिम बार संशोधित किया गया था।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 25th June, 2015

S.O. 1823.—Whereas on 6th November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

Whereas in pursuance of the provision of sub-section (1)(b) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. S. Balasubramanian, Professor Medicine, Rajah Muthiah Medical College, was elected as Member of the Medical Council of India representing Annamalai University, Annamalai Nagar, Tamil Nadu *vide* notification dated 5.11.2013 in Gazette of India:

Whereas the Annamalai University, Annamalai Nagar, Tamil Nadu has informed that Dr. S. Balasubramanian, Professor Medicine, Rajah Muthiah Medical College who is representing Annamalai University, Annamalai Nagar, under section 3(1) (b) of IMC Act, 1956 has submitted his resignation due to personal reasons. Therefore, Dr. S. Balasubramanian has ceased to be a member of Medical Council of India representing Annamalai University, Annamalai Nagar, Tamil Nadu under section 3(1) (b) of IMC Act, 1956.

Now, therefore, in pursuance of the provision of IMC Act, 1956, Dr. S. Balasubramaniyan, shall be deemed to have ceased to be a member of the Medical Council of India representing Annamalai University, Annamalaiagar, Tamil Nadu with effect from 25.06.2015.

[No. V-11013/02/2015-MEP-I]
AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* Number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

श्रम एवं रोजगार मंत्रालय
नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1824.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पारामाउंट एअरवेज प्राइवेट लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 25/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं० एल-11012/08/2015-आईआर (सीएम-1)]
एम. के. सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th September, 2015

S.O. 1824.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2015) of the Central Government Industrial-Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Paramount Airway Pvt. and their workmen, received by the Central Government on 10.09.2015.

[No. L-11012/08/2015-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 24th August, 2015

Present: K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 25/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between

the Management of Paramount Airways & Another and their workmen)

BETWEEN

Sri Nitin Sood : 1st Party/Petitioner

AND

1. The Association
Vice President-HR : 2nd Party/1st Respondent
M/s. Paramount Airways
Pvt. Ltd.,
Alexander Square
No. 35, Sardar Patel Road
Guindy
Chennai-600032
2. Sri M. Thiagarajan, : 2nd Party/2nd Respondent
Managing Director
M/s. Paramount Airways Pvt. Ltd.
A-21 Lankaram Street, Thirunagar
Madurai-625008

Appearance:

For the 1st Party/Petitioner : M/s. M.L. Ganesh &
S. Arun Kumar, Advocates

For the 2nd Party/1st & : Set Ex-parte
2nd Respondent

AWARD

The Central Government Ministry of Labour & Employment, vide its Order No. L-11012/08/2015-IR (CM-I) dated 27.02.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of Paramount Airways, Chennai regarding termination of the service of the petitioner Capt. Nitin Sood is justifiable or not? To what relief the workman is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 25/2015 and issued notice to both sides. The petitioner has entered appearance and filed Claim Statement. The Respondents, though received notice remained absent and were set ex-parte.

3. The averments in the Claim Statement are as below :

The petitioner had joined the Respondent's Airlines, Paramount Airways as a Trainee First Officer. On 7th day of July, 2006 the Airways altered the terms and conditions of employment of the petitioner and signed revised terms and conditions and deed of service. As per the revised terms and conditions the petitioner agreed to serve the Company for a minimum period of 5 years after obtaining type Endorsement of E170 P2 (First Officer). During this period of 5 years the petitioner

had to serve the Company exclusively and shall not serve any other Company or Airlines or Concern to fly same type of aircraft in respect of which training has been provided to him. The period of 6 years was to be calculated from the date of completion of the said training and on resuming actual services as First Officer. After completion of training the petitioner started actual service with the Respondents from 01.02.2007. As per revised terms and conditions the petitioner was to be on probation for a period of 6 months after obtaining endorsement on his flying license as a First Officer, which can be extended at the discretion of the Management. After 6 months of the period of probation, the petitioner had been requesting orally and in writing to the concerned officials of the Respondents for confirmation in service. After confirmation the Company would be entitled to terminate the services of the petitioner without assigning any reason by giving 6 months notice in writing. The salary of the petitioner was revised after 12 months of the endorsement. On 7th November, 2009 the Management called a meeting of the pilots and informed that the monthly salary would be reduced by about 60%. The petitioner was directed to sign consent letter of minutes of meeting agreeing to the changes in the terms and conditions of the salary package. The petitioner has refused to sign the consent letter as this will result in loss of his earnings. Due to non-compliance with the direction of the Respondents to sign the consent letter the termination letter was issued to the petitioner on 18.11.2009. The petitioner was treated as an employee on probation and he was offered 7 days notice pay only. The petitioner's service has become confirmed even though written communication was not given. An order may be passed setting aside the order of the termination by the Respondents and directing the Respondents to reinstate the petitioner in service with full backwages and also directing to clear the dues to the petitioner towards wages, privilege leave EPF contribution and interest on the amount due.

3. The petitioner has filed Proof Affidavit and also made Ext. W1 to Ext. W19 to substantiate the case.

4. The Points

- (i) Whether the action of the Respondents in terminating the service of the petitioner is justified?
- (ii) To what relief the petitioner is entitled?

The Points

5. The petitioner has joined the service of Paramount Airways as a Trainee First Officer. As per the revised terms and conditions of Airways the petitioner was to serve the Airways for a period of 5 years. His salary has been revised from Rs. 1,57,400/- to Rs. 1,90,000/- in January, 2008. However, the Respondents wanted to reduce the salary by 60% in November 2009, and wanted the Petitioner to give a consent letter for which he refused. The petitioner is said to have been terminated from service on 18.11.2009 on account of this.

6. Though the petitioner has claimed the relief of reinstatement also in the Claim Statement, in this Proof Affidavit he is claiming the monetary benefits due to him only. He has stated in the Proof Affidavit that he has obtained a job after 15 months and 19 days of his termination i.e. from 13.03.2011 and has restricted his claim of monetary benefits upto this period.

7. The case of the petitioner is substantiated by the affidavit and documents produced by him. The Respondents have not come forward to challenge the case put forth by the petitioner. The case of the petitioner is to be accepted in the circumstances. He is entitled to an order as claimed in the Affidavit.

Accordingly an award is passed as follows:

- (i) The Respondents shall pay the petitioner salary for the period from 01.11.2009 to 17.11.2009 and from 24.11.2009 to 13.03.2011.
- (ii) The Respondents shall pay 6 months notice pay to the petitioner as for a permanent employee.
- (iii) The Respondents shall pay amounts towards 64 days Privilege Leave to the petitioner.
- (iv) The Respondents shall pay the Provident Fund amount due to the petitioner.
- (v) The Respondents are also liable to pay interest 6% per annum on the amount due towards salary to the petitioner.

The reference is answered as above.

K.P. PARSANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : WW1, Sri Nitin Sood
 For the 2nd Party/1st & 2nd : None
 Management

Documents Marked:**On the petitioner's said**

Ex.No.	Date	Description
Ext. W1	07.07.2006	Copy of the Revised Terms and Conditions as Annexure-1
Ext. W2	07.07.2006	Copy of the Deed of Service as Annexure-2
Ext. W3	-	Copy of the Rs. 20.00 Lakhs Undated Cheques as Annexure-3
Ext. W4	-	Copy of the Commercial Pilot License as Annexure-4
Ext. W5	-	Copy of the Conferment of Permanent Status to Workman Act, 1981 as Annexure-5
Ext. W6	-	Copy of the Payslips Dec., 2007 to January, 2008 as Annexure-6
Ext. W7	-	Copy of the Aircrew loss of license policy as Annexure-7
Ext. W8	-	Copy of the "Minutes of Meeting" as Annexure-8
Ext. W9	-	Copy of the DGCA Rules 3.5 as Annexure-9
Ext. W10	18.11.2009	Copy of the Termination Letter as Annexure-10
Ext. W11	-	Copy of the final settlement Cheque as Annexure-11
Ext. W12	-	Copy of the Bank Salary Account Statement as Annexure-12
Ext. W13	-	Copy of the Airline's Staff Leave Policy as Annexure-13
Ext. W14	-	Copy of the Salary Dues with 10% Interest as Annexure-14
Ext. W15	-	Copy of the EPFO Form 3A upto 28.02.2009 as Annexure-15
Ext. W16	04.05.2010	Copy of the Notice letter to Respondent as Annexure-16
Ext. W17	-	Copy of the Labour Commissioner Chennai Letter to as Annexure-17
Ext. W18	-	Copy of the Ministry of Labour Mantralaya Order as Annexure-18
Ext. W19	-	Copy of the News Paramount Airways Won Rs. 1,650 crore in Litigation as Annexure-19

On the Respondent's side

Ex.No.	Date	Description
	Nil	
नई दिल्ली, 10 सितम्बर, 2015		
<p>का.आ. 1825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गवर्नमेंट ओपियम और उपक्षार कारखाने, नीमच के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सीजी आई टी/एल सी/आर 57/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2015 को प्राप्त हुआ था।</p>		
[सं० एल-42012/294/2010-आईआर (डी यू)]		
पी.के. वेणुगोपाल, डेस्क अधिकारी		
New Delhi, the 10th September, 2015		
<p>S.O. 1825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/57/2011) of the Central Government Industrial-Tribunal-cum-Labour Court Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the Govt.</p>		
<p>Opium & Alkaloid Factory, Neemuch and their workman, which was received by the Central Government on 09.09.2015.</p>		
[No. L-42012/294/2010-IR(DU)]		
P.K. VENUGOPAL, Desk Officer		
ANNEXURE		
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR		
No. CGIT/LC/R/57/2011		
Shri Shailendra Singh Thakur,		
R/o Safi Villa, Diamond Hall,		
Opp. State Bank of Bikaner and Jaipur,		
Bungalow No. 49,		
Neemuch.		
...Workman		
<i>Versus</i>		
General Manager,		
Govt. Opium & Alkaloid Factory,		
Neemuch.		
...Management		

AWARD

Passed on this 12th day of August, 2015

As per Letter dated 25-5-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/294/2010-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Opium and Alkaloid Factory, Neemuch in terminating the services of Shri Shailendra Singh Thakur w.e.f. 14.6.2010 is legal and justified? What relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of workman is that 2nd party is factory, Industrial Employment Standing Orders Act and standing orders framed are applicable to it as more than 100 employees are working on its establishment. The 1st party workman was working as Boiler operator. The Union of employees working with 2nd party was formed and it is registered bearing No. 5219. Workman was connected with formation of said Union. He was General Secretary. Workman was rising demands of the labours. Management developed enmity with him management illegally terminated workman with motive to interfere with the union Registration. Workman was served with chargesheet dated 18.11.09 under Central Civil Service Rules 1965. Workman was immediately suspended. He was not paid subsistence allowance 5 charges were alleged against workman in chargesheet issued by 2nd party, advisor was appointed as Enquiry Officer. Workman denied charges against him. Preliminary enquiry was conducted on 6.1.2010. Presenting Officer Kurasi had made initial submissions. Enquiry was conducted with bias and prejudice. The documents requested by workman as per letter dated 21.10.2010 were not supplied to him. Workman was not permitted to cross examine the management's witnesses. He was not allowed to examine defence witnesses. Workman had submitted written submissions before Enquiry Officer. Services of workman were terminated on 14.6.2010.

Workman challenged order of his termination by filling appeal before Chief Controller. His appeal was also dismissed. Workman raised dispute before ALC, Bhopal 2nd party did not obey the notice dated 6.8.2010 by RLC. It is reiterated that enquiry was not conducted as per standing orders. Principles of natural justice were not followed. Workman was not paid subsistence allowance. The acts committed by 2nd party is by way of victimization and amounts to unfair labour practice. Workman prays for his reinstatement with backwages.

4. 2nd party did not file Written Statement, 2nd party is proceeded ex parte on 2-4-2014.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of Opium and Alkaloid Factory, Neemuch in terminating the services of Shri Shailendra Singh Thakur w.e.f. 14.6.2010 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman have challenged legality of enquiry conducted against and it is further contented by him that enquiry was not conducted as per certified standing orders. Enquiry conducted against him under Central Conduct and Appeal rules is illegal.

7. As 2nd Party has not filed Written Statement and participated in the reference proceedings, the issue about legality of enquiry is not required to be framed and decided. Instead the point involved in the reference is required to be decided.

8. Workman filed affidavit of his evidence supporting his contentions instatement of claim. From his evidence, documents Exhibit W-1 to 13 are admitted in evidence. The evidence of workman remained unchallenged. As 2nd party did not participate in proceeding and cross-examine the workman, I do not find any reason to disbelieve evidence of workman on the point that enquiry was not properly conducted, workman was not supplied documents, he was not allowed to adduce evidence in defence, subsistence allowance was not paid to him during Enquiry Proceedings. Therefore I record my finding in Point No. 1 in Negative.

9. Point No. 2-In view of my finding in Point No. 1 the action of the management in dismissing workman is illegal, question remains for decision is whether workman is entitled for backwages. Once enquiry in found illegal, order of dismissal is illegal. Workman is entitled for reinstatement with backwages. Accordingly I record my finding in Point No. 2.

10. In the result, award is passed as under:—

- (1) The action of the management of Opium and Alkaloid Factory, Neemuch in terminating te services of Shri Shailendra Singh Thakur w.e.f. 14.6.2010 is not proper and legal.
- (2) 2nd party is directed to reinstate workman with continuity of service and backwages.

R.B. PATLE, Presiding Officer

नई दिल्ली, 9 सितम्बर, 2015

का.आ. 1826.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल हप सर्किल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, 1 चंडीगढ़ (filed under Section 33 & 33A in the matter of complaint arising out of LCA No. 9 of 2012) के पंचाट (संदर्भ संख्या 98/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2015 को प्राप्त हुआ था।

[सं एल-42025/03/2015-आईआर (डीयू)
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th September, 2015

S.O. 1826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 98/2013) of the Central Government Industrial-Tribunal-cum-Labour Court No. 1 Chandigarh (filed under Section 33 & 33A in the matter of complaint arising out of LCA No. 9 of 2012) now as shown in the Annexure, in the industrial dispute between the employers in relation of the management of the Chief Post Master General HP Circle Shimla and their workmen, which was received by the Central Government on 09.09.2015.

[No. L-42025/03/2015-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 98/2013

Shri Jagman Singh Rana son of Shri Kishan Singh Rana resident of Village and Post office Kotla Kalan, Tehsil and district Una (H)).

...Workman

Versus

1. The Assistance Post Master General Office of the Chief Post Master General HP Circle Shimla-171009.
2. The superintendent RMS HP Division Mandi 175001.

...Respondents

Appearance :

For the workman : Shri R.P. Mehra Advocate
For the management : Shri Sanjiv Sharma Advocate.

AWARD

Passed on 03.09.2015

The workman moved the present petition U/s 33A of the Industrial Disputes Act, 1947 for violation of the

provisions of Section 33 read with item No. 7 of the Fifth Schedule which has been registered as Industrial Disputes, on the ground that workman filed LCA No. 9 of 2012 in this Tribunal for claiming service benefits. Thereafter the workman filed OA No. 142/HP/2013 in the Central Administrative Tribunal to claim IIIrd ACP with grade pay of Rs. 4800/-. That on account of filing of LCA, the respondent management infuriated to the extent that they order his transfer forthwith during the pendency of the LCA No. 9 of 2012 which is violative of the provisions of Section 33 of the Industrial Disputes Act 1947. It is also pleaded that the employees with the tenure of 15 or 20 years are working continuously at a particular station, however the workman with a short tenure has been transferred which is also unfair labour practice under 5th Schedule of the I.D. Act and Section 25T and is punishable U/s 25(u) of the I.D. Act and prayed that the guilty may be punished for violating the provisions of the Industrial Disputes Act. The workman also annexed documents Annexure 1 to annexure 5.

2. The management filed reply in which it is pleaded that OA No. 142/HP/2013 was filed by the workman in CAT was disposed off on 24.5.2013 without commenting upon the merits with regard to the relief pending before this Court. The averment of the workman is incorrect as he was working in Una sorting from 19.2.2006 on the post of sorting assistant (BCR) and from 13.8.2008 on 5.9.2013 in the post of SRO(LSG). The tenure of SRO(LSG) supervisor is four years. It is prayed by the management that no provisions of ID Act has been violated by the management and the application U/s 33A deserve rejection. Along with written statement management annexed three document i.e. order of CAT dated 24.5.2013, copy of letter dated 4.1.2013 and copy of rule regarding transfer and postings.

3. I have heard the parties, gone through the record.

4. From the reply filed by the management it is revealed that workman filed OA No. 142/HP/2013 before the Hon'ble Central Administrative Tribunal, Chandigarh. The certified copy of the judgment dated 24.5.2013 has also been placed on record by the management. The Hon'ble Central Administrative Tribunal, Chandigarh in para 9 of judgment dated 24.5.2013 has observed as under:

"Admittedly, the orders dated 17.1.2013 and 21.1.2013 (Annexure A-3 and A-4) have already been withdrawn by the respondents as per order dated 11.2.2013 (annexure R-5). Therefore, the first prayer of the applicant stands satisfied. With regard to second contention, admittedly, the applicant has already approached the Central Govt. Industrial Tribunal-cum-labour Court, Chandigarh for redressal of his grievance on the same very prayer clause, the present OA is not maintainable."

5. From the above it is clear that the order of promotion and transfer dated 17.1.13 and 21.1.2013 have been withdrawn by the management vide order dated 11.2.2013. Besides this, it is evident from the record of the LCA No. 9 of 2012 filed in

this Court, on 7.1.2013 and the first date was fixed for hearing for 5.2.2013. The promotion and transfer orders were issued on 17.1.2013 and 21.1.2013 and it can not be presumed that the fact of filling the LCA No. 9 of 2012 was to the knowledge of the management. Moreover the transfer orders have been withdrawn by the management (as mentioned in the judgment of the CAT Chandigarh).

6. Therefore, in view of the facts above, it cannot be said that the management has violated Sections 33 and 33A of the Industrial Disputes Act 1947.

7. The complaint filed by the workman U/s 33A of ID Act for violation of Section 33 of the I.D. Act is liable to be dismissed.

8. The petition U/s 33A and 33 of the I.D. Act 1947 is disposed off accordingly.

Chandigarh.
3.09.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1827.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोऑक्सिअल केबल प्रोजेक्ट ग्वालियर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सीजीआईटी/ एलसी/आर/231/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.09.2015 को प्राप्त हुआ था।

[सं० एल-40012/119/92-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. case No. CGIT/LC/R/231/93) of the Central Government Industrial-Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the Co-axial Cable Project, Gwalior and their workman, which was received by the Central Government on 09.09.2015.

[No. L-40012/119/92-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/231/93

Shri Monga Ram,
S/o Shri Bhogiram
r/o Ambedkar Nagar,

Nadipar, Morar, Gwalior

...Workman

Versus

Junior Telecom Officer,
Co-axial Cable Project,
Jabalpur Camp-Gwalior

...Management

AWARD

Passed on this 14th day of August, 2015

1. As per letter dated 20.10.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/119/92-IR (DU). The dispute under reference relates to:

"Whether the action of the management of Junior Telecom Officer, Coaxial Cable Project Jabalpur in terminating the services of Shri Monga Ram S/o Shri Bhogi Ram is justified or not? If not for what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 8/1 to 8/3. Case of workman is that he was appointed in Telecom Department in February 1985. He was posted in Railway Electrification section Kota Division. Therefore he was discharged. Again applicant was appointed on muster roll in April 1995 under SDO Gwalior. At that time Shri P. Singh was SDO Gwalior. He was working from April 85 to May 88 under SDO Phones, Gwalior. In June July 88, he was sent to Railway Electrification at Vidisha. In August 88, applicant was taken to Gwalior under SDO Phones. He worked in Aug. and Sept. 88. From October 88, applicant was sent to Co-axial cable project, Gwalior where he worked in June 1989. From July 1989, workman was provided work. However payment was made under ACG-17 till January 1990. In February March 1990, he was not given work. In April 1990, he was given work for 7 days. Thereafter department decided to retrench daily rated workers as per directions in letter dated 7-3-90. Workman submits that he completed more than 240 days during the preceding year. He was issued Identity cards. His services are terminated without compliance of section 25-F, 25-G of ID Act. he was not paid retrenchment compensation, notice pay. Reasons for retrenchment were not disclosed. his services are terminated in violation of section 25-F, G, H of ID Act. 2nd party engaged Private contractors. The Act of 2nd party amounts to unfair labour practice. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement opposing claim of the workman. 2nd party contents that workman was purely engaged as casual labour in the project of 2nd party. The job of applicant was of temporary nature in Railway Electrification. He was not appointed against permanent post. The engagement of 1st party as casual worker was for a specific period in Railway Electrification. Workman was

engaged in different units. As work was finished, his services automatically came to end. 2nd party submits that workman had not completed 240 days continuous service. The disengagement of workman does not amount to retrenchment under Section 2(o) of ID Act. It is denied that services of workman are terminated in violation of Section 25-F, G, H of ID Act. Workman is not entitled to any relief.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of Junior Telecom Officer, Co-axial Cable Project Jabalpur in terminating the services of Shri Monga Ram S/o Shri Bhogi Ram is justified or not? | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

5. Workman is challenging termination of his service for violation of Section 25-F, G, H of ID Act. workman filed affidavit giving details of his working in Railway Electrification in February 1985. The working of 3 days at a place, in April 1985, he was engaged on muster roll on daily wages by SDO Telephone, Gwalior. He worked from April 85 to May 88. Thereafter he was working in Railway Electrification Vidisha in June July 88. In August, Sept. 88, he was working at Gwalior. From October 88, he was taken to Co-axial cable project where he was working till June 89. That he completed 4 years service. His services were terminated without notice. 2nd party engaged unfair labour practice. Workman is given details of his working days in para-6 of his affidavit from February 1985 to April 1990. In his cross, workman says in 1985, he was engaged in Railway Electrification project at Vidisha. He worked for two months. He was paid monetary wages as per the muster rolls. He denies that only he had done work of laying cables. Workman reiterates that he was also doing work of laying cables. Workman denies that he not completed 240 days continuous service.

6. 2nd party filed affidavit of witness of Shri S.N. Tiwari supporting contentions of 2nd party that workman not completed 240 days continuous service. The management's witness remained absent for his cross-examination. His evidence cannot be considered. Thus contentions of 2nd party are not supported by valid evidence. The working days shown in affidavit of workman is not shattered by cross-examination. The evidence on record shows that workman was continuously working in 2nd party from 1985 to April 1990. His services are terminated without notice,

retrenchment compensation is not paid to him, the termination of workman is in violation of Section 25-F of ID Act. therefore I record my finding in Point No. 1 in Negative.

7. In view of my finding in Point No. 1 services of workman are terminated without notice, violating Section 25-F of ID act. workman was engaged on daily wages from April 1985 to April 1990. The learned counsel for workman relied on ratio held in

Case of Durgapur Casual Workers Union and others Versus FCI reported in 2015(5) SCC-786. Their Lordship dealing with Section 25-F, H of ID Act and unfair labour practice Item 10, Schedule IV held powers of industrial and Labour Courts to pass appropriate orders, once unfair trade practice established. Services of appellant workmen who were employed by respondent corporation as casual employees on daily wage basis not regularised. The Tribunal Specifically finding unfair labour practice on part of Corporation, it was not open to High Court to interfere with award of Tribunal directing absorption of appellant workmen.

The terms of reference in present case is restricted to the legality of termination of his services and not pertain to absorption of workman in service. Ratio cannot be beneficially applied to case at hand. The terms of reference does not pertain to regularization of the workman. As services of workman are terminated in violation of Section 25-F, considering the working period April 85 to April 1990, compensation Rs. 75,000 would be reasonable. Accordingly I record my finding in Point No. 2.

8. In the result, award is passed as under:—

- (1) The action of the management of Junior Telecom Officer, Co-axial Cable Project Jabalpur in terminating the services of Shri Monga Ram S/o Shri Bhogi Ram is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs. 75,000 to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1828.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिविशनल इंजीनियर टेलीकॉम, भोपाल के प्रबंधपत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं० सी०जी०आई०टी०/एलसी०आर 42/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं.एल-40012/21/96-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1828.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/42/98) of the Central Government Industrial Tribunal-Cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Divisional Engineer Telecom, Bhopal and their workman, which was received by the Central Government on 09/09/2015.

[No. L-40012/21/96-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/42/98

Shri Ramdas S/o Shri Gangaram,
Village Jargaon, Post Bhageh,
Tehsil Dabra,
Distt. Gwalior (MP)

...Workman

Versus

Divisional Engineer Telecom (RE),
Arera Colony,
Bhopal

...Management

AWARD

Passed on this 13th day of August, 2015

1. As per letter dated 23-2-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/21/96-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram w.e.f. 15-8-91 is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/3. The case of workman is that he was engaged on daily wages from 17-8-85 with 2nd party. He was working with devotion at Gwalior till 30-4-86. From 10-6-86, workman was engaged on daily wages at Bhopal. He was continuously working till 14-8-91. On 15-8-91, his services were orally discontinued. The oral termination is illegal. He was not given one months notice or one months pay in lieu of notice. He was not paid retrenchment compensation. Without issuing show-cause notice, his services were terminated. That he had worked continuously more than

240 days. His termination is in violation of Section 25-F of ID Act. other persons engaged after him are continued in employment in violation of Section 25-G of ID Act. for terminating services of workman, permission of Government was not obtained. On such ground, workman is praying for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 16/1 to 16/2 opposing claim of the workman, 2nd party raised preliminary objection that Railway Electrification Project is under control of Director of Railway Electrification of office at Bhopal. Said office was established by Telecom department. After completion of its work in 1990, said office was close. The record was destroyed after complying the rules. Any information about working of Ist party is not available. Claim of workman deserves to be rejected. 2nd party reiterates that record relating to the working of Ist party is not available. Compensation under ID Act was paid to the retrenched labours. Permission for retrenchment was taken from Competent Authority. Claim of workman is without any basis. It is barred by time limit. On such ground, 2nd party prays from answering reference in its favour.

4. Workman filed rejoinder reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram w.e.f. 15-8-91 is legal and justified? In Negative

(ii) If so, to what relief the workman is entitled to? As per final order.

REASONS

6. Ist party is challenging termination of his service for violation of Section 25-G,H of ID Act. workman filed affidavit of his evidence supporting his contentions in statement of claim. That he was working from 17-8-95 to 31-1-86 at Datia from 1-2-86 to 30-4-86, he was required to work at Gwalior Laying the cables. From 10-6-86, he was engaged on daily wages at Bhopal. He was continuously working at Bhopal till 14-8-91. His services were orally discontinued from 15-8-91. That he was working with 2nd party for six years during each of the calendar year, he completed more than 240 days continuous service. The details of his working days are given in Para-4 of his affidavit. In his cross-examination, workman says on 17-8-85, he was engaged by Motilal Kushwaha. He was appointed at Datia where he worked for one year. He was

not appointed by contractor. From Datia, he went to Bhopal for work. Before discontinuing his services, SDO had contacted JTO. He was orally terminated. Written order of termination was not given to him. He denies that appointment letter in writing was not given to him that he had gone for work from Datia to Bhopal, transfer order was not received. He was unable to tell whether PF was deducted from his wages. When he was transferred from Datia, said office was working. Workman in his further cross denies that he was working sometimes 8 days, 12 days, 15 days in a month. Document Exhibit W-1 was referred to workman. Secondly it was admitted in evidence. He denies that he had not worked 240 days in any of the year. Before his engagement, post was not advertised. Presently he is working in the agricultural land. In document Exhibit W-1, the working days of workman are shown more than 240 days during each of the year 17-8-85 to June 88. The evidence of workman is corroborated by document Exhibit W-1.

7. Management's witness Shri R.V. Chouhan filed affidavit supporting contentions of 2nd party in the Written Statement. That the work of electrification project was carried at different points. The office at Bhopal was closed in 1990. The documents related to the project were destroyed as per Rule-69 in Appendix-V. In his cross-examination, witness of management says he is working with 2nd party from April 84. He does not know the workman. He had seen his service record. Work was completed in 1990. Presently he is working in BSNL since 1-10-00. At that time option of employee working in Telecom Deptt. was called. The option was also called from casual employee working in Telecom department. Copy of rules about distribution of rules is produced. Management's witness has no personal knowledge. The documents relating to the working of 1st party could not be produced as stated above. The evidence of workman is supported by document Exhibit W-1. Workman had completed 240 days continuous service during 1985 to 1988. Therefore I do not find reason to disbelieve evidence of workman. The services of workman are discontinued without notice, no retrenchment compensation was paid. Though 2nd party in its Written Statement has contented that retrenchment compensation was paid under ID Act, any document in that regard are not produced by 2nd party. No document is also produced about permission of Competent Authority for retrenchment of employee is obtained. The contentions of 2nd party in that regard are not substantiated by documents. It is clear that services of workman are discontinued in violation of section 25-F of ID Act, therefore I record my finding in Point No. 1 in Negative.

8. **Point No. 2**-Termination of workman is found illegal for violation of Section 25-F of ID Act, question remains for consideration that workman is entitled for reinstatement with backwages. The evidence of management's witness

that office of Railway Electrification Project at Bhopal was closed in 1998 is not shattered in its cross examination. Workman was engaged on daily wages. As per evidence in cross-examination of workman, the post was not advertised. Appointment letter in writing as not given to him. Copy of award in R/274/97 is produced. In said case, violation of Section 25-G was also established. Workman has not disclosed names of any junior persons continued by 2nd party therefore reinstatement of workman could not be possible. Considering nature of engagement of workman and period of his engagement, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) The action of the management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram w.e.f. 15-8-91 is not proper and legal.
- (2) 2nd party is directed to pay Rs. One Lakh compensation to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1829.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्यूनिकेशन, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संसीजीआईटी/एलसी/आर/179/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं एल-40012/90/98-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No.CGIT/LC/R/179/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Bhopal and their workman, which was received by the Central Government on 09/09/2015.

[No.L-40012/90/98-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/179/99

Shri Prabhakar Kantalay,
S/o Murlidhar Kantalay,
1/6, Telecom Colony,
Govindpura, Bhopal

...Applicant

*Versus*Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
MP Circle,
Bhopal (MP)

...Non-applicant

AWARD

Passed on this 6th day of August 2015

1. As per letter dated 26-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/90/98/IR(DU). The dispute under reference relates to:

"Whether the action of the management of Chief General Manager, Telecom Bhopal in terminating the services of Shri Prabhakar Kantalay S/o Shri Murlidhar Kantalay is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/3. Case of workman is that he was appointment as peon in 2nd party on 15-4-93 as permanent employee. The services were orally terminated on 3-3-98 without assigning any reasons. No chargesheet was issued to him. Enquiry was not conducted against him. He completed more than 240 days continuous service. His services were illegally terminated Compensation was not paid to him by 2nd party. The rules about retrenchment were not followed. After termination of his services, 2nd party appointed other persons. Ist party workman submits that he acquired status of permanent employee. He was paid wages at daily wage rate. However payment was made at end of month. Ist party had issued notice through his Advocate. Despite of his notice, workman was not reinstated. On such contentions, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 6/1 to 6/3 opposing claim of the workman. 2nd party submits that workman was not appointed by the management. He was not its regular employee. That during summer seasons, some labours have to be appointed on temporary basis as

waterman. Workman was engaged for such purpose during 15-4-93 to 14-6-93. Ist party workman was not engaged after April 1996 to 3-3-98. As workman was never appointed by management, there was no question of giving one month's notice. Workman was not permanent employee of the department. Details of working days of workman are given in para-4 of the Written Statement- In 1993-61 days, in 1994-nil, in 1995-104 days without breaks, for some period appointed on full time basis. In 1996-121 days, in 1997- nil, in 1998- nil. It is reiterated that workman not completed 240 days continuous service. He is not entitled for retrenchment compensation. Workman was engaged for specific period. He did not work for six months. Engagement of workman in summer season was for specific period. Workman did not work after May 1996. On such ground, 2nd party prays that reference be answered in its favour.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Chief General Manager, Telecom Bhopal in terminating the services of Shri Prabhakar Kantalay S/o Shri Murlidhar Kantalay is legal and justified? In Affirmative

(ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. 2nd party contends that workman was not appointed, he not completed 240 days continuous service.

7. Workman filed affidavit of his evidence supporting his contentions is statement of claim. Workman has stated that he was appointed as peon on 15-4-93. he was orally terminated on 3-3-98 without assigning any reasons. That he completed 240 days continuous service. He was not paid retrenchment compensation. Work was available all the 12 months. He worked as peon. After termination, he submitted representation. He was not reinstated. In his cross-examination, workman says letter of appointment was received by him. Original appointment letter is with him. His name was not sent through Employment Exchange office. For regular appointment it is necessary that name is sponsored through the Employment Exchange. Workman volunteered that his name was registered in Employment Exchange office but any document is not produced on

record. The post on which he was appointed was not advertised. he was engaged for supplying drinking water. He denies that since his initial service, he was working for few hours. Workman denied suggestion that the not completed 240 days continuous service. The witness of Ist party Pachu Gopal in his evidence on affidavit supports that workman was working with 2nd party from 1993 to 1998. In his cross-examination, witness of Ist party says he was working on photo printer at Bhopal. Workman was working in his office from 1993 to 1998 as waterman. He was also doing work of distribution of letters, collecting letters. Workman was doing work as directed by Executive Engineer. Witness says he was not working under Executive Engineer. Workman was not working in is section. He denies that workman was not working from 1993 to 1998. That he was enlarging maps on machines and taking its print. Peon was not provided to him. Workman was collecting letters from his section. He was not writing CRs of workman.

8. Management's witness Shri Mishra filed affidavit of his evidence supporting contentions of 2nd party in Written Statement. Working days of Ist party are narrated in para-5 of his affidavit stated in the statement of claim. That after May 96, workman was not working in the department. In his cross-examination, management's witness denies that workman was working as peon/waterman from 15-4-93 to 13-12-98. Muster roll of workman is not maintained. For some time, workman was working on full time basis and some time part time basis. That Account Officer can be examined as witness. Suggestion is denied that workman completed 240 days continuous service. Documents produced Exhibit W-1 is office order dated 22-4-93 workman was offered casual appointment form 15-4-93 to 14-6-93 period of 2 months. Exhibit W-1(a) workman was engaged temporarily on fixed rate for daily 2 hours from 21-6-93. Exhibit W- 1(b) workman was offered casual appointment from 17-4-95 to 16-6-95. Exhibit M-1 shows workman was engaged for 13 days as waterman from 17-4-93. He was paid wages at Rs. 48/- per day. Workman was engaged as waterman in June 93, July 93, October 93, December 93, February 94, April 94. The vouchers about payment of wages are produced. The documents received by workman under RTI Act are produced at Exhibit W-2 shows engagement of workman as waterman for above said period only. Any document is not produced about engagement of workman as waterman after May 95. The documents at page 14 to 52 produced with Exhibit W-2 are w.r.t. typing charges, compute services. The pleading and evidence of workman are silent about Ist party workman working with compute services.

9. Workman filed additional affidavit in order to prove Exhibit W-2. In his cross-examination workman says he did not pay attention whether he received appointment letter in May 96. He was engaged during summer season for two months is denied. He also denies suggestion that he not completed 240 days continuous service. Workman is alleging termination of his service from 3-5-98. However witness No.2 of Ist party says workman was working till December 98 therefore his evidence can hardly be believed. The documents produced on record donot show that workman was working with 2nd party after May 96. There is no cogent evidence that

workman was working with 2nd party for continuous 240 days preceding 12 months of termination of his service therefore there was no question of paying retrenchment compensation or compliance of section 25-F of ID Act. For above reasons, I record my finding in Point No. 1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of Chief General Manager, Telecom Bhopal in terminating the services of Shri Prabhakar Kantalay S/o Shri Murlidhar Kantalay is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1830.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दी ई टी, आर ई प्रोजेक्ट, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सी०जी०आई०टी०/एलसी/आर/118/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं० एल-40012/116/97-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/118/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the DET, RE Project, Bhopal and their workman, which was received by the Central Government on 09/09/2015.

[No. L-40012/116/97-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/118/98

Shri Keshav Prasad Shriwas,
S/o Shri Ganesh Prasad Shrivass,
House No. 54,
Behind Old Central Bank Building,
Garha, Jabalpur.

...Workman

Versus

DET
RE Project,
E-3/179, Arera colony,
Bhopal

...Management

AWARD

Passed on this 3rd day of August 2015

1. As per letter dated 16-6-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/116/97-IR(DU). The dispute under reference relates to:

"Whether the action of the management of DET, RE Project, Bhopal in terminating the services of Shri Keshav Prasad Shriwas, S/o Shri Ganesh Prasad Shriwas w.e.f. 31-10-87 is legal and justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 4/1 to 4/3. Case of workman is that he was employed by 2nd party on post of Helper he was posted to work at Bhopal under control of Non-applicant No.2. He was working honestly. He was employed from 1-8-86. His services were discontinued from 31-10-87. He was continuously working from his initial appointment till his services were discontinued for more than 240 days during calendar year. He acquired status of regular employee. His discontinuation amounts to retrenchment. That his services were terminated without assigning any reasons. There were no complaints against him. Termination notice was not issued to him. He was not paid retrenchment compensation. He was not given opportunity of hearing. No chargesheet was issued neither enquiry was conducted against him. Permission of appropriate government was not taken. It is submitted that his retrenchment is illegal. Principles of first come last go was not followed.

3. Many workmen whose services were terminated in similar manner filed various petitions before CAT, Jabalpur by common judgment in OA411/90 dated 28-8-95. Management was directed to regularize services of workman whose services are illegally terminated cancelling order of termination. It was held that casual labours engaged before 22-6-88 termination order passed without payment of retrenchment compensation, termination was quashed. On such ground, workman was praying for reinstatement with backwages.

4. 2nd party filed Written Statement at page 5/1 to 5/2 opposing claim of workman. 2nd party's case is that reference is bad as workman never worked with the management of 2nd party, DET Railway Electrification, Bhopal. Workman was working as Sub-Inspector Store Optical fibre Project. That Railway Electrification Organisation does not come under General Manager, Hoshangabad Road, Bhopal. Workman never worked with Electrification project. The contentions of workman in his statement of claim are baseless. That Railway electrification project was short term project given by Department of Railway to department of Telecommunication for erection and dismantling of lines and

wires in Bhusawal section. To undertake execution of the project, office of Director Telecom Railway Electrification Bhopal was opened. The funds for project were provided by Railway. On completion, the project was closed. The funds were exhausted. Office of Director, Telecom RE Bhopal was closed from 1-5-90. The casual labours as per requirement were engaged to carry out said project. Management does not have any project in hand. Workman junior to workman is not continued. Workman never rendered services with management. Compliance of provisions of Section 25-F of ID Act was not required. On such ground, 2nd party prays reference be answered in its favour.

5. 1st party workman filed rejoinder at Page 6/1 to 6/3 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of DET, RE Project, Bhopal in terminating the services of Shri Keshav Prasad Shriwas, S/o Shri Ganesh Prasad Shriwas w.e.f. 31-10-87 is legal and justified? In Negative

(ii) If not, what relief the workman is entitled to? As per final order.

REASONS

7. Workman is challenging termination of his service for violation of Section 25-F of ID Act. Management of 2nd party denied his claim. Workman filed affidavit of his evidence supporting his claim in statement of claim that he was employed by DET(RE) Project, Deptt. of Telecom on post of Helper. He was posted at Bhopal. He worked from 1-8-86 to 31-10-87 continuously without any break. He worked more than 240 days in a calendar year. In his cross-examination, workman says he was working as daily wager in Re Project. He was doing work of digging ditches, laying cables and erecting poles. He denies that after project was completed, his services were terminated. In case of appointment of regular employee, the names are sponsored through Employment Exchange. His name was not sent through Employment Exchange. He says that he was interviewed. Workman has produced Exhibit W-1 personal record of his service. Working days of workman shown in it almost all the days in a month from August 1986 to January 87, 28 days in Feb-87, 24 & 7 days in March 1987 and all the days in month of May 87 to October 87. Workman also examined witness Shri Golkar Prasad Sen. He has supported claim of workman during 1986-87, he was working in Telecom Office, Bhopal. Workman was working in department. In working record Book Exhibit W-1-the entries are written in his handwriting

are correct. In his cross-examination, said witness says service record W-1 is of Re Project. He admits that workman Keshav Prasad was daily wage employee. He admits that working of OFC Deptt. is different from BSNL. OFC is branch of BSNL. He was working as Sub Inspector, RE, the service record Exhibit W-1 was prepared by the office. He was not working as Asstt. Engineer. He denies that in Column 5 of Exhibit W-1, except him, other person were not authorized to sign. He denies that he wrongly signed in column-6. Witness explained that he was authorized to sign as Director by AE. The evidence of witness that he had taken entries in Exhibit W-1 is not shattered.

8. The evidence of management's witness Wasudeo Lanjewar is on the point that workman never worked under Divisional Engineer, RE Project, Bhopal. The project work was of short term. Divisional Engineer, Bhopal carried out the work for protection of telecom affected due to electrification by Railway Deptt. said work was under control of Chief General Manager, RE Project. Workman never rendered his services in Railway Electrification project, Bhopal. Management's witness in his cross examination says that he has stated that workman did not work in his unit and not in the department. Presently the management's witnesses was working in DRE, New Delhi. He claims ignorance in which unit workman was working. He claims ignorance about the workman. He had come as a witness regarding working in his unit and not the department. He was working for some days in the unit where workman was working. Again he corrected that he did not work in that unit. He had seen order of reference. RE Project, Bhopal is his unit. Workman did not work with said unit. He claims ignorance whether about reply filed before ALC. He knows about working in his unit and not the department. Asstt. Engineer, optical fibre was not his unit. It is part of OFC, he claims ignorance about office of OFC Project. That OFC project and DET were different. He claims ignorance about the officers of OFC Project. In Exhibit W-1, on 1st page, department of Telecom Railway Electrification project is written in bold letters. It is clear that work was given to the department of Telecommunication by Railway Electrification Project. If evidence of workman corroborated by evidence of his witness is considered and compared with the evidence of management's witness evidence of management's witness is not cogent. Management's witness has admitted that workman was working in Telecom Project, OFC unit. Order of reference is not challenged by 2nd party. From entries in Exhibit W-1, it is established that workman completed more than 240 days continuous service. Workman was terminated without notice, retrenchment compensation was not paid to him. Workman was engaged on daily wagers. After completion of 240 days continuous service, compliance of Section 25-F was necessary. As services of workman are terminated without notice, retrenchment compensation is not paid to him, termination of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

9. Point No. 2- In view of my finding in Point No. 1 termination of services of workman is illegal, question remains

as to whether workman is entitled for reinstatement with backwages.

10. Learned counsel for 1st party Shri A.K. Shashi relies on ratio held in

Case of Ramesh Kumar *versus* State of Haryana reported in 2010(2) SCC-543. Their Lordship dealing with termination of casual employees in violation of Section 25-F of ID Act held in case of termination of casual employee what is required to be seen is whether he has completed 240 days of service in preceding 12 months or not. If he has then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25-F. Though appointment on public post cannot be made in contravention of recruitment rules and constitutional scheme of employment, contention that initial appointment of appellant was contrary to recruitment rules and constitutional scheme of employment was not raised either before Labour Court or High Court at the first instance. Appellant had not prayed for regularization but only for reinstatement. Their Lordship upheld Labour Court's direction for reinstatement with continuity of service and regularization.

In present case, there is no evidence that similarly situated persons are reinstated or regularised. Therefore ratio held in the case cannot be applied to present case at hand.

Reliance is also placed on ratio held in case of Harinandan Prasad and another *versus* management of FCI and others reported in 2014-II-LLJ-54(SC). Their Lordship held direction for regularization impermissible, if there are no posts available. When similarly situated workmen are regularised by employer itself under some scheme and workmen in question are at par with them, direction of regularization in such cases legally justified. Ist appellant was not in service on date when scheme promulgated as his services were dispensed with 4 years before the circular.

In present case, workman has not pleaded anything about the scheme neither he has claimed regularization under any claim therefore the ratio cannot be applied to present case at hand.

Reliance is also placed in Tapash Kumar Paul *versus* BSNL reported in 2014-AIR-SC-5816. My attention was drawn to para-6 of the judgment. Their Lordship observed it is no doubt true that a Court may pass an order substituting an order of reinstatement by awarding compensation but the same has to be based on justifiable grounds i.e. (1) where the industry is closed, (ii) where the employee has superannuated or going to retire shortly and no period of service is left to his credit, (iii) where the workman has been rendered incapacitated to discharge the duties and cannot be reinstated.

The daily wagers claim is not dealt with above judgment.

11. On the point Shri R.S.Khare relies on ratio held in Case of Asstt. Engineer, Rajasthan Development

Corporation and another *versus* Giram Singh reported in 2013(2) SCC(L&S) 369. Their Lordship dealing with Section 25-F, Section 11 of ID Act w.r.t. daily rated workers from termination held factors to be taken into account while granting consequential relief. Distinction should be drawn between daily rated worker and worker holding regular post. Service of daily wager who worked for short period of 240 days only terminated by employer in 1991 in contravention of Section 25-F Labour Court awarded reinstatement with continuity in service with 25% back wages. Award not interfered with by Single Judge and Division Bench of High court held exercise of judicial discretion suffers from serious infirmity and compensation Rs.50,000 was allowed.

Next reliance is placed on ratio held in case of Secretary, state of Karnataka and others *versus* Umadevi(3) and others reported in 2006(4) SCC-1. In present case, workman has not claimed regularization. That the termination in violation of Section 25-F was not under consideration in Umadevi's case therefore ratio held in case cannot be beneficially applied to case at hand.

In case of MP State Agro Industries Development Corporation Ltd. and another *versus* S.C.Pandey reported in 2006(2) SCC-716. Their Lordship dealing with daily wager employees held daily wager does not held the post as he is not appointed in terms of the provisions of the Act and rules framed thereunder and therefore he doesnot derive any legal right.

12. Shri A.K.Shashi produced copy of award in R/88/01. From careful reading of the above said award, it is clear that the proved misconduct against workman was assaulting superior, beating him by shoes etc. The facts of present case are not comparable.

13. The evidence of workman is clear that his name was not sponsored through Employment Exchange. He was working on daily wages. Therefore the ratio held in above case cannot be applied. Workman was working hardly for 14 months on daily wages. Reinstatement of workman would not be justified, compensation Rs. 25,000/- would be appropriate. Accordingly I record my finding in Point No. 2.

14. In the result, award is passed as under:—

- (1) The action of the management of DET, RE Project, Bhopal in terminating the services of Shri Keshav Prasad Shriwas, S/o Shri Ganesh Prasad Shriwas w.e.f. 31-10-87 is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs. 25,000 to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1831.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सी जी आई टी/एल सी/आर/12/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं० एल-40012/224/94-आईआर(डी यू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/12/96) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Jabalpur and their workman, which was received by the Central Government on 09/09/2015.

[No. L-40012/224/94-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/12/96

Shri Ram Sevak Kori,

Through Secretary,

Council of Trade Union,

1123, Wright Town,

In front of Telegraph Gate No. 3,

Jabalpur (MP)

...Workman/Union

Versus

General Manager,

BSNL, 1123, Wright Town.

In front of Telegraph Gate No. 3,

Jabalpur

...Management

AWARD

Passed on this 18th day of August, 2015

1. As per letter dated 27-28/12/95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of ID. Act, 1947 as per Notification No. L-40012/224/94-IR-DU). The dispute under reference relates to:

"Whether the action of the General Manager, Telecom, Wright Town, Jabalpur (MP) in not regularizing but

terminating the services of Shri Ram Sevak Kori, S/o Shri Parsadilal Kori, Ex. Mazdoor w.e.f. 31-7-94 is legal and justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/3. Case of workman is that he has passed HSc examination of MP Board Sehora in Jabalpur District. He was appointed as Electrical maintenance labour category in February, 1988. He was continuously working without break from 16-2-94. After giving rest of 12 days, workman was again called to work till 10-8-94. Thereafter his services were discontinued. That other junior colleagues were continued in service even after discontinuation of the workman. That his service record was unblemished. Any enquiry was not initiated against him.

3. Workman was appointed as casual labour in 1988. He worked more than 6 years. His demand for regularization was turned down on the ground that he should not indulge in leadership that instead of regularizing his services as labour or electrician, workman was discontinued. That there are various circulars to the effect that any employee who is working prior to 1990 should be regularized.

4. 2nd party management filed Written Statement at page 9/1 to 9/2 opposing claim of the workman. 2nd party submits that workman was engaged as casual labour due to the extension of telecom service in State of MP. The services of workman were required for job of temporary nature. He was engaged subject to availability of work. That workman was not engaged continuously. For first time, he was engaged in 1992. He rendered service for 220 days, in 1993 for 365 days, in 1994 for 31 days. Workman failed to report for work therefore he was marked engaged afterwards. Workman was not terminated. He himself failed to report to work. That workman could not be granted temporary status as per scheme framed by the department. Temporary status of casual labour engaged prior to March, 1985 or 1988, workman is not covered by the scheme. He is not entitled for temporary status. That Section 25-F of ID Act is not affected as the action of management doesnot amount to retrenchment. On such ground, 2nd party submits that dispute be answered in its favour.

5. After recording evidence, the reference was decided by my predecessor passing award on 2-8-01 holding that workman was not entitled to relief claimed by him. Said award was challenged by workman filing Writ Petition 727/02. The Writ Petition was allowed in favour of workman directing reinstatement without back wages. The directions were also given to the management to consider his case for temporary status in terms of the scheme within six months. The judgment in above Writ Petition was challenged by management filing MCC-556/2006. Considering raito in various cases, the matter is remanded to this Tribunal setting aside award.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the General Manager, Telecom, Wright Town, Jabalpur (MP) in not regularizing but terminating the services of Shri Ram Sevak Kori, s/o Shri Parsadilal Kori, Ex. Mazdoor w.e.f. 31-7-94 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. The matter is remanded by Hon'ble High Court setting aside judgment of Single bench in Writ petition 727/02 observing that affidavit and statement by itself is not sufficient. The order dated 3-12-05 directing reinstatement of workman. The matter has been remanded back for decision by this Tribunal.

8. Workman has filed affidavit of his evidence workman has stated that he rendered services for 298 days as casual labour in 1988. He worked for 273 days in 1989. After completion of table work in March 1990, he was transferred to TTC Campus, Ridge Road, Jabalpur from 1-4-90 to 3-4-92, he was regular in department, he was again transferred to EDM office, Jabalpur in 1992. He worked for 312 days during May 92 to March 93 and 306 days during April 93 to Jan. 94. In his further evidence, workman says on 26-11-05, he had submitted application in office Exhibit W-1. That circular Exhibit W-2 was issued by Account Officer. Circular Exhibit W-3 was issued by Assistant Engineer. In his cross-examination, workman says he was engaged for work of laying the cables. After said work was completed, his services were discontinued. From Exhibit W-1, name of receiving person is not mentioned. That certificate Exhibit W-2 was issued on his application, copy of application is not produced on record. In Exhibit W-3, the date of issuing and name of issuing Authority is not mentioned. Workman denied that Exhibit W-3 is forged document. That document Exhibit W-4 was prepared on his requies. The careful perusal of documents Exhibit W-1 shows endorsement made by some authority on 26-11-05, Exhibit W-2 shows that workman had worked for 312 days from May, 92 to March 93, 306 days from April, 93 to January, 94. The certificate of working Exhibit W-3 issued by Asstt. Engineer shows that workman was working for 2 years from 1-4-90 to 30-4-92, Exhibit W-4 also shows his working days 290 days in 1988, 273 days in 1989, 69 days in 1990.

9. The evidence of workman is also supported by Co-employee Omprakash Sharma that workman completed more

than 240 days during each of the year 1988 to 1994. Witness No. 2 of 1st party in his cross-examination says his affidavit was filed 2 years before his cross-examination. That he was working in Telecom department presently known as BSNL. He claim ignorance whether workman Ramsevak was given appointment letter. He was unable to tell whether workman was engaged on daily wages and wages were paid at end of the month workman was working with him from 1992. His services were terminated in 1994. He had seen documents of workman. Witness was unable to tell whether workman had worked in the year 1995. Evidence of workman is corroborated by evidence of his witness as well as documents Exhibit W-1 to W-4.

10. 2nd party management has admitted in Written Statement in Para 3 that workman had worked for 222 days in 1992, 365 days in 1993. The evidence of workman is corroborated by document and supported by evidence of his witness. It is sufficient to establish that workman had worked continuously more than 240 days preceding his termination.

11. Management did not adduce any evidence. It was submitted that management is not desiring to adduce evidence as per ordersheet dated 4-3-2014. As services of workman are terminated without notice despite the workman had completed 240 days continuous service is in violation of Section 25-F of ID Act. I record my finding in Point No. 1 in Negative.

12. Point No. 2—In view of my finding in Point No. 1, services of workman are terminated in violation of Section 25-F of ID Act, question is whether workman is entitled for reinstatement with backwages. On the point Shri A.K. Shashi counsel for 1st party relies on ratio held in

Case of Maharashtra State Board of Secondary and Higher Secondary Education Amravati and another *versus* Sanjay Krishnarao Shrugare reported in 2008-II CLR 301. The ratio held in the case relates to unfair labour practice under Maharashtra Recognition of Trade Unions and Prevention of unfair labour practices Act, 1971. Their Lordship held that best possible evidence with the appellant on the point of total service put in by the respondents not brought on record by the appellant. Appellant has to blame itself for this failure on its part.

Even in present case, management has not brought any evidence about the service period of workman.

In case of Tapash Kumar Paul *versus* BSNL reported in 2014 AIR SCW 5816. Their Lordship held that it is no doubt that Court may pass an order substituting an order of reinstatement by awarding compensation but the same has to be based on justifiable grounds *i.e.* (1) where the industry is closed, (ii) where the employee has superannuated, (iii) where the workman has been rendered incapacitated to discharge the duties and cannot be reinstated, (iv) when he has lost confidence of the management to discharge duties.

In above cited case, the point was not under consideration w.r.t. engagement of casual employees on daily wages. The copies of awards in R/26/93, R/88/01 are also brought to my notice. Each reference requires to be decided considering evidence on its record. In present case, workman was engaged as casual employee on daily wages. He reinstatement with backwages would not be justified.

13. Reliance is placed by Shri R.S. Khare, counsel for management in.

Case of Assistant Engineer, Rajasthan Development Corporation *versus* Gitam Singh reported in 2013(2) SCC (L&S) 369. Their Lordship held distinction should be drawn between daily rated workman and worker holding regular post, their Lordship allowed compensation Rs. 50,000/-

Reliance is also placed in ratio held in case of Secretary, State of Karnataka and others *versus* Umadevi and others reported in 2006(4) SCC-1. In case of Umadevi, point about violation of Section 25-F of ID Act was not involved therefore ratio held in case cannot be applied to present case at hand.

Considering workman was engaged as casual employee working for about 6 years with 2nd party, his services are terminated in violation of Section 25-F of ID Act, compensation Rs. 1,00,000 (One Lakh) would be appropriate. Accordingly I record my finding in Point No. 2.

14. In the result, award is passed as under:—

- (1) The action of the General Manager, Telecom, Wright Town, Jabalpur (MP) in not regularizing but terminating the services of Shri Ram Sevak Kori, S/o Shri Parsadilal Kori, Ex. Mazdoor *w.e.f.* 31.7.94 is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs. 1,00,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1832.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्यूनिकेशन, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सी जी आई टी/एल सी/आर/314/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं० एल-40012/239/99-आई आर (डी यू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th September, 2015

S.O. 1832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/314/99) of the Central Government Industrial Tribunal cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication, Bhopal and their workman, which was received by the Central Government on 09/09/2015.

[No. L-40012/239/99-IR (DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/314/99

Shri Wahid Hussain,
C/o Mohd. Ismail,
Behind Pipal Paththa Masjid,
Peenjarwarhi,
Shajapur,
Distt. Bhopal
Versus

...Workman

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
MP Circle, Bhopal.

...Management

AWARD

Passed on this 19th day of August 2015

1. As per letter dated 21-10-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-40012/239/99-IR(DU), The dispute under reference relates to:

"Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Wahid Hussain *w.e.f.* 26-3-99 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/4. Case of workman is since August 1984, he was working as labour in Sub Divisional Engineer, Telecom Shajapur. Engagement of casual labour was approved by AGM Administrative, therefore large number of casual labours were engaged in the Telecom Deptt. Hon'ble Apex have introduced scheme for regularization of casual labours as per judgment in AIR-1987-SC-342. That the scheme was introduced from 7-11-89. Workman claim that he is entitled for regularization as per said scheme. Instead of regularizing his services, workman was orally terminated on 31-3-99 in violation of Section 25-F of ID Act. Permission of

Government was not taken. He completed 240 days continuous service. Workman was not paid retrenchment compensation. He was paid Rs. 1200 pm less than minimum wages prescribed. Workman submits that he was subjected to exploitation. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 4/1 to 4/2 opposing claim of the workman. 2nd party reiterates that workman was never engaged by the management. No dispute arise. Workman was not appointed by management. There is no question of his regularization, termination of workman in violation of Section 25-F of ID Act is denied. It is denied that workman worked more than 240 days.

4. Considering pleadings on record, the point which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Wahid Hussain *w.e.f.* 26-3-99 is justified? In Negative

(ii) If not, what relief the workman is entitled to? As per final orders.

REASONS

5. Is party filed affidavit of his evidence stating that he was appointed as labour in August 1984. He worked till May 1985. He worked till May 1985. He was taken back to work in March 1987 under control of SDO Shajapur where he worked till March 1995. That in conciliation proceeding before ALC, management's witness had admitted workman had continuously worked more than 240 days. He was not paid retrenchment compensation. In his cross workman says the post was not advertised. He was engaged as casual labour. His name was not sponsored through Employment Exchange. Appointment letter was given to him as casual labour in 1987. He would produce said document. However the document is not produced. Zerox copy of ID Card is produced. Management has not admitted it. Workman not laid valid evidence to prove said document.

6. Management's witness Bhagchand in his affidavit of evidence says workman was labour engaged by management. He is not entitled for regularization. In his cross-examination management's witness says he is working at Shajapur as SDE Legal from May 2011. He did not recollect the names of SDO with whom casual labours were working. He had seen old muster roll before filing his affidavit, Name of workman was not found in it. The witness of management was unable to produce the muster rolls for the year 1984-85. Casual employees working in 1984-85 scheme for regularization was introduced. Workman was not paid retrenchment compensation. Suggestion is denied

that workman had completed more than 240 days continuous service till 1985. any record about his working is not produced. Application for production of documents was submitted by workman on 26-6-03. As per ordersheet dated 22-11-04, management was directed to produce documents. However no documents are produced. When management has not produced documents, adverse inference deserves to be drawn against the management, the document should have been produced, same would have supported the claim of workman that he had worked more than 240 days. The services of workman are terminated without notice, retrenchment compensation is not paid to him. Therefore I record my finding in Point No. 1 in Negative.

7. Point No. 2-workman was engaged as casual labour 1987 to 1999. Post was not advertised. Instead of reinstatement with backwages awarding reasonable compensation would be appropriate. Considering the case compensation Rs. 2 Lakh would be reasonable. Accordingly I record my finding in Point No. 2.

8. In the result, award is passed as under:—

- (1) The action of the management of Chief General Manager, Telecom in terminating the services of Shri Wahid Hussain *w.e.f* 26-3-99 is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs. 2 Lakhs to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1833.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, असनसोल के पंचाट (संदर्भ सं. 73/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं. एल-22012/343/2004-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th Septemer, 2015

S.O. 1833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2005) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between

the management of M/s. Eastern Coalfield Limited, and their workman, received by the Central Government on 10.09.2015.

[No. L-22012/343/2004-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 73 OF 2005

PARTIES:

The management of Chinakury Colliery of M/s. ECL
Vs.

Sri Dharam Bouri

REPRESENTATIVES:

For the management: Shri P.K. Das, Ld. Adv. (ECL)
For the union (Workman): Sri R.K. Tripathi,
General Secretary (KMC)

INDUSTRY: COAL STATE: WEST BENGAL

Dated: 18.08.15

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/343/2004-IR(CM-II) dated 21.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Chinakury Colliery in dismissing Sri Dharam Bouri, DOSCO Face Worker from services *w.e.f* 01.11.2003 is legal and justified? If not, to what relief the workman is entitled to and from which date?"

Having received the Order No. L-22012/343/2004-IR(CM-II) dated 21.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 73 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri R.K. Tripathi, General Secretary of the union (KMC) appears on behalf of the workman but none appears on behalf of the management.

Sri Tripathi files a petition praying therein that the case may be closed as the workman is no more interested to proceed with the case further. Since the workman is not interested to proceed with the case further and the case is also 10 years old. I think it just and proper to close the case. As such the case is closed and accordingly a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 93/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं० एल-22012/305/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th Septemer, 2015

S.O. 1834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 93/2005) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Kuardih Colliery of M/s. ECL, and their workman, received by the Central Government on 10.09.2015.

[No. L-22012/305/2004-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 93 OF 2005

Parties:

The management of Kuardih Colliery of M/s. ECL

Vs.

Late Amiya Kumar Mishra

REPRESENTATIVES:

For the management: P.K. Goswami,
Ld. Advocate (ECL)

For the union (Workman): None

INDUSTRY: COAL STATE: WEST BENGAL

Dated: 17.08.15

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/305/2004-IR(CM-II) dated 04.08.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kuardih Colliery of M/s. Eastern Coalfield Limited in not considering the retirement dated as 30.09.1997 in respect of Late Amiya Kumar Mishra is legal and justified? If not, to what relief the dependent of the deceases are entitled?"

Having received the Order No. L-22012/305/2004-IR (CM-II) dated 04.08.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 93 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both the parties are absent.

On perusal of the case record find that the Union appeared at the tribunal only on 08.05.2006 and 07.02.2007 through their advocate Mr. Sayantam Mukherjee. But after that the union neither appeared nor file written statement. 1st notice was issued to the union on 01.09.2005 and 18 dates were granted. 2nd notice was issued on 29.05.2009 and 17 dates were granted after that. 3rd notice was issued on 05.12.2011 and 3 dates were granted. 4th notice was issued on 24.05.2012 and 10 dates were granted. Last notice was issued on 15.10.2014 and 3 dates were granted. This a case of the year 2005 and 51 opportunities were granted to the workman but all in vain. It seems that the workman is not at all interested to proceed with the case from the beginning. Had he been interested with the case he ought

to have filed written statement within 10 years. Even he could file his written statement when the post of Presiding Officer was vacant.

Under the circumstances explained above I think it proper and justified to close this old reference. Hence the reference case is closed and accordingly a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 21/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं एल-22012/110/2005-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 10.09.2015.

[No. L-22012/110/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 21 OF 2006

PARTIES:

The management of Dhemomain Colliery of M/s. ECL

Vs.

Sri Naurangi Nonia

REPRESENTATIVES:

For the Management : Shri P.K. Goswami,
Ld. Adv. (ECL)

For the Union (Workman) : Shri Kuldip Mahato,
Jt. Secy., KMC

Industry : Coal

State : West Bengal

Dated: 19.08.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) Government of India through the Ministry of Labour *vide* its letter No. L-22012/110/2005-IR (CM-II) dated 11.07.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Dhemomain Colliery under Sodepur Area of M/s. ECL in not regularizing the services of Shri Naurangi Nonia, Surface Trammer as Security Guard since 1999 is legal and justified? If not, what relief the workman is entitle to?"

Having received the Order No. L-22012/110/2005-IR (CM-II) dated 11.07.2006 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference Case No. 21 of 2006 was registered on 09.08.2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Cases called out. Shri Kuldip Mahato, Joint, Secretary of the Union (Koyla Mazdoor Congress) appears on behalf of the workman and Shri P.K. Goswami, Learned Advocate appears on behalf of the management (ECL).

Shri Mahato has made an endorsement on the order sheet that the workman does not want to proceed with the case because he has been regularized by the management. Since the workman has been regularized, no dispute exists between the parties. As such the case is closed and a 'No Dispute Award' may be passed accordingly.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Government of

India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चिनाकुरी कोलियरी ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 128/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं एल-22012/39/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 128/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial dispute between the management of Chinakury Colliery of M/s ECL, and their workmen, received by the Central Government on 10.09.2015.

[No. L-22012/39/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 128 OF 2005

PARTIES:

The Management of Chinakury Colliery of M/s. ECL

Vs.

Shri Dulal Bouri

REPRESENTATIVES:

For the management : Shri P.K. Das, Ld. Adv. (ECL)

For the Union (Workman) : Shri S.K. Pandey,
General Secretary (CMC)

Industry : Coal

State : West Bengal

Dated : 19.08.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour *vide* its letter No. L-22012/39/2005-IR (CM-II) dated 01.12.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Chinakury Colliery under Sodepur Area of M/s Eastern Coalfields Limited in dismissing Shri Dulal Bouri, R.H. Crew from service is legal and justified? If not, to what relief the concerned workman is entitled to?"

Having received the Order No. L-22012/39/2005-IR (CM-II) dated 01.12.2005 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 128 of 2005 was registered on 23.12.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Shri S.K. Pandey, General Secretary of the Union (Colliery Mazdoor Congress) appears on behalf of the workman and Shri P.K. Das, Learned Advocate appears on behalf of the management (ECL).

Shri Pandey submits that the workman is not at all intersted to proceed with the case further. So the case may be closed. He has also written it on the order sheet.

On perusal of the case record I find that this case was fixed for cross-examination of the witness, Shri Dulal Bouri on 25.10.2007 and since 25.10.2007 the workman remains absent. So I think it proper to close this case. As such the case is closed and accordingly a 'No dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तिस गौरा सब एरिया डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 44/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं एल-22012/29/2009-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Thisgaora Sub Area, WCL, and their workmen, received by the Central Government on 10.09.2015.

[No. L-22012/29/2009-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/44/2010

Shri Santosh Dehariya,
S/o Radheylal, Shivaji Colony,
Shivpuri, Q.No. 384, PO Sirgora,
Tehsil Parasia,
Chhindwara

...Workman

Versus

The Manager,
WCL, Thisgora sub Area,
Pench Area,
PO Parasia,
Distt. Chhindwara

...Management

AWARD

Passed on this 18th day of August, 2015

1. As per letter dated 17.09.2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/29/2009-IR (C-II). The dispute under reference relates to:

"Whether the action of the management of M/s WCL in terminating the services of Shri Santosh Dehariya *w.e.f.* 07.04.1999 is legal and justified? To what relief is the concerned workman entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman failed to file statement of claim, he is proceeded exparte on 10.06.2014, 2nd party filed exparte Written Statement, 2nd party submits that workman was working as Tub Loader at Thesgora Mines of WCL, Pench Area. He was habitual absentee. Chargesheet was issued to the workman on 19-9-98 for misconduct under clause 26.22, 26.34. workman had refused to do the job after marking attendance. Shri R.K. Tripathi was appointed as Enquiry Officer. Enquiry Officer issued memorandum for hearing of the enquiry on various dates. Workman had submitted representations. On 12-10-98, workman was present, no proceeding took place as Management Representative was absent. Next sitting of enquiry was held on 28-10-98. Workman was present, management representative was absent. On 9-12-98, workman was not present, management representative was present. Enquiry proceeding was adjourned to 5-1-99. Enquiry was again adjourned on 10-1-99, 11-1-99, 18-1-99. Management examined witness Pandari, Verma on 18-1-99. Workman refused to cross-examine the management's witnesses. The witnesses were discharged. Enquiry Officer submitted is report, showcause notice was also issued to workman on 24-3-99. Copy of Enquiry Report was sent to workman along with showcause notice. Workman failed to submit his statement of claim. Management submits if enquiry is found illegal, permission be granted to prove misconduct.

3. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

"(i) Whether the action of the management of M/S WCL in terminating the services of Shri Santosh Dehariya <i>w.e.f.</i> 7-4-99 is legal and justified?"	In Affirmative
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(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.
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REASONS

4. Workman has not participated in reference proceedings, he is proceeded exparte on 10-6-2014. Management filed Written Statement, affidavit of evidence of management's witness Shri P.K. Tripathi is filed supporting contentions of management in Written Statement. Enquiry conducted against workman. copies of record of Enquiry proceedings are produced alongwith list. As workman has failed to participate in reference, evidence of management's witness cannot be disbelieved. For above reasons, I record my finding in Point No. 1 in Affirmative.

5. In the result, award is passed as under:—

(1) The action of the management of M/S WCL in terminating the services of Shri Santosh Dehariya *w.e.f.* 7-4-99 is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोहागपुर एरिया एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 49/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं एल-22012/46/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 49/2010 of the as Cent.Govt.Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Sohagpur Area of SECL, and their workmen, received by the Central Government on 10/09/2015.

[No L-22012/46/2010-IR(CM-II)]

RAJENDER SINGH Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/49/2010

The President/Secretary,
SEKMC(INTUC),
Sohagpur Branch,
PO Dhanpuri,
Shahdol

...Workman/Union

Versus

Chief General Manager,
Sohagpur Area of SECL,
PO Dhanpuri,
Shahdol

...Management

AWARD

Passed on this 20th day of August, 2015

1. As per letter dated 8-11-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-22012/46/2010-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of Sohagpur Area of SECL in transferring Shri Abdul Sattar in the capacity protected workman and during the pendency of dispute is legal and justified? To what relief Shri Abdul Sattar is entitled to?"

2. After receiving reference, notices were issued to the parties. However workman failed to participate in the reference proceeding. Reference proceeded *ex parte* against workman on 16-10-2010.

3. Management filed *ex parte* Written Statement. Case of management is reference pertains to legality of transfer of workman (Protected workman). Workman was not recognised as protected workman. Unless transfer order is received with *malafide* intention, the order of transfer cannot be interfered. Workman Abdul Sattar was working as accountant and posted at Sohagpur. As per copy of his appointment order, transfer is one of the condition of service. On administrative ground, workman was transferred to Dipila Area, Distt Korba *vide* order dated 12-1-2010. He was relieved on 20-1-10. On representation of workman *vide* order dated 14-6-2010, the transfer order was kept in abeyance. Workman was permitted to resume duty at Sohagpur Area. The transfer of workmen was on administrative reasons. There is no reason to interfere with the order of transfer.

4. 2nd party management filed affidavit of witness Manoj Bhandari supporting contentions in Written Statement. As workman failed to participate in reference proceeding, evidence of management's witness remained unchallenged. Any ground is not made out to interfere with the order of transfer therefore award is passed as under:—

(1) The action of the management of Sohagpur Area of SECL in transferring Shri Abdul Sattar in the capacity protected workman is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहर नवोदय विद्यालय के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 164/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं एल-42012/49/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. No. 164/2001) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Jawahar Navodaya Vidyalaya, and their workmen, received by the Central Government on 10/09/2015.

[No L-42012/49/2001-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/164/2001

Smt. Maya Chowhan,
W/o Subash Chowhan,
Ex-Sweeper-cum-Chowkidar,
Jawahar Navodaya Vidyalaya,
Ward No. 6, PO Waraseoni,
Balaghat.

...Workman

Versus

The Principal,
Jawahar Navodaya Vidyalaya,
Waraseoni, Balabhat

...Management

AWARD

Passed on this 19th day of August, 2015

1. As per letter dated 5-10-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/49/2001-IR(CM-II). The dispute under reference relates to:

"Whether the action of the Principal, Jawahar Navodaya Vidyalaya, Waraseoni, Balghat MP in not regularizing Smt. Maya Chowhan W/o Subhash Chowhan, Sweeper-cum-Chowkidar after completion of 240 days attendance and stopping her from duty w.e.f. 1-5-2000 is legal and justified? If not, to what relief she is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Pages 9/1 to 9/3. Case of workman is she was appointed as sweeper-cum-watchman for 89 days as per order dated 31-12-98 one Sudhir Kumar terminated by department on 18-1-01. He had raised dispute under R/2/02. He is taken back in service and still continued. That she completed more than 240 days continuous service. Her services are terminated malafidely. On such ground, workman prays for her reinstatement with backwages.

3. Written Statement filed at Pages 10/1 to 10/2 opposing claim of the workman. 2nd party submits that the regular

appointment are made by the Committee following prescribed procedure. The workman was appointed as Sweeper-cum-watchman temporarily on daily wages at Collectorate rate. She worked for 29 days in January, 2000, 31 days in March, 2000 and 30 days in April, 2000. Workman had not completed 240 days continuous service. One Mr. Mamta was appointed on compassionate ground as sweeper-cum-watchman therefore services of workman were not required. Her services were terminated. On such ground 2nd party submits that claim of workman cannot be allowed.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

"(i) Whether the action of the Principal, Jawahar Navodaya Vidyalaya, Waraseoni, Balghat MP in not regularizing Smt. Maya Chowhan W/o Subhash Chowhan, after completion of 240 days attendance and stopping her from duty w.e.f. 1-5-2000 is legal and justified?"	In Affirmative
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(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.
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REASONS

5. Though workman raised dispute challenging termination for violation of Section 25-F of ID Act, she has not adduced evidence. The document Exhibit W-1 is appointment for 61 days during March to April 2000. Exhibit W-1(a) appointment for 89 days from 3-1-00 to 31-3-00. From those documents, her working days comes to 150 days. Exhibit W-2 is undertaking submitted by workman not to claim regular post. Opting such undertaking cannot be appreciated. The workman has failed to establish that she was continuously working for 240 days. Provisions of Section 25-F cannot be applied to her case.

6. Learned Counsel for 2nd party pointed out my attention to the notification dated 17-12-98 issued under Section 14(2) of Administrative Tribunal Act, 1935. Navodaya Vidyalaya is mentioned at Sl. No. 45.

7. However the jurisdiction of Labour Court cannot be taken away by said circular when 1st party workman is covered under Section 2(s) of ID Act.

8. Management has also not examined any witness in the case. As workman has not completed 240 days continuous service, I record my finding in Point No. 1 in Affirmative.

9. In result, award is passed as under:—

(1) The action of Principal, Jawahar Navodaya Vidyalaya, Waraseoni, Balghat MP is not regularizing Smt. Maya

Chowhan W/o Subhash Chowhan, Sweeper cum Chowkidar after completion of 240 days attendance and stopping her from duty w.e.f. 1-5-2000 is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसईसीएल के प्रबंधपत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 72/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं एल-22012/97/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/99) of the Cent. Govt. Indus. Tribunal-cum-Labour court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Gevra Area of SECL, and their workmen, received by the Central Government on 10/09/2015.

[No. L-22012/97/1998-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/72/99

The Secretary,

CSMU, Gevra project,

Q.NO. MD 395

Deepika Colony,

Distt. Bilaspur.

...Workman/Union

Versus

Chief General Manager, SECL, Gevra Area,

PO Gevra Project,

Distt. Bilaspur.

...Management

AWARD

Passed on this 18th day of August 2015

1. As per letter dated 27-1-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/97/98-IR(CM-II). The dispute under reference relates to:

"Whether the action of management of Gevra Project of SECL in denying promotion to Shri Lilaran Gond from EPF.III to EPF.II is justified? If not, to what relief she is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union at Page 6/1 to 6/3. Case of Ist party is that workman was pointed as trainee Fitter on stipend Rs. 21-16 on 30-11-88. On completion of training period of one year, he was appointed in Gevra Project of SECL on 3-1-89 as Fitter Technical. He belongs to ST. Workman appeared in HSc examination in 1991. However he did not clear said examination. His performance was very good. Nothing adverse was informed to him. Said workman is employee in Class D category. There is nothing like Annual confidential Reports are written. In 1994, it is notified by the management that some post of EP Fitter grade II are to be filled up eligibility for promotion is 4 years experience as EP Fitter Grade III. As said workman is fulfilling the required criteria, he has applied for the same post. He was entitled to benefit of reservation as per policy of Government. Workman was not allowed promotion. Junior to him like Omprakash Bhardwaj, Shivcharan Choudhary, Nandu Baghel Ramdheen Sahu etc. were promoted to the post of EPF Grade II. Workman prays benefit of ptomotion and backwages.

3. Management filed Written Statement at page 8/1 to 8/2 opposing claim of the workman. 2nd party submits Lilaran was initially appointed as Fitter Trainee on 3-1-89. It is denied that he was regularised on the post of Fitter Grade III on 3-1-99. After completion of training period of one year, workman was appointed on 3-1-89 on post of Fitter Grade III. The documents referred by Ist party in statement of claim are not supplied to the management. In 1994, DPC was constituted for the post of Fitter Grade II Category VI. DPC was constituted for the post of Fitter Grade II Category VI. DPC did not find eligible or suitable for promotion to the higher grade therefore he was not promoted. The reason for not promoting workman is his performance reported by controlling Officer, he is not eligible for ptomotion. It is denied that workman was eligible for promotion. It is reiterated that as his Controlling Authority reported not fit for promotion, DPC did not recommend his name. Reservation benefit could be considered only if the workman was found eligible for promotion. It is submitted that DPC rightly denied promotion to him.

4. Workman filed rejoinder at Page 11/1 to 11/2 reiterating his contentions in statement of claim.

5. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| (i) Whether the action of the management of Gevra Project of SECL in denying promotion to Shri Lilaran Gond from EPF. III to EPF. II is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman in not entitled to any relief. |

REASONS

6. Workman filed affidavit of evidence in support of his claim covering his contentions in statement of claim. Workman submits that in 1994, juniors to him were promoted to DP Fitter Grade II Grade "C" Departmental Committee did not hold Trade Test. Workman was not selected on the basis of qualification, oral test and trade test. DPC has manipulated performance report procured it after selection process. Out of total vacancy, atleast one post should have been from ST candidates. DPC did not recommend any ST candidates. There was no SC ST candidates in the list prepared by DPC. Total 26 persons had appeared in test out of performance report of 18 persons were not found satisfactory. Workman in his cross says he was appointed as Fitter Grade III on 3.1.89. He was promoted to Fitter Grade II in 2002. He claims ignorance about the rules governing his service or cadre scheme. The promotions are given in the department on recommendations of DPC. In 2002, he was promoted but not on recommendation of DPC. In the year 1994, he had appeared before DPC. In the year 1994, he had appeared before DPC for post of Fitter Grade-II. He claims that the name was included by DPC in list of Promotion of candidates. Said document is not produced on record. He admits that in 1994, DPC did not recommend his name for Fitter Grade II therefore he was not granted promotion.

7. Management's witness Shri K. Shankar Narayanan filed affidavit of his evidence narrating the details of constitution of DPC Committee Marks to be allotted out of 40 marks, for qualification 10 marks, oral-15 marks, trade-15 marks. For candidates having matric 10 marks, passing 8th standard-5 marks, illiterate candidate-2 marks. Qualifying marks were 20 marks i.e. 50% . The candidates getting less than 50% marks were not found recommended. That performance of 18 candidates were not found satisfactory. Performance of 9 candidates were found satisfactory. They had secured more than 50% mark were recommended for promotion. Name of workman is not included among those 9 persons. In his cross-examination, management's witness says performance report bears signature of Shri R.K. Jaiswal and Sudhanshu Pradhan marked Exhibit M-2. DPC performance report was one of the criteria for recommending. Oral test and other test of the candidates were taken. It was not necessary to file marksheet therefore it is not produced. Mr. B.D. Sahay was Dy. General manager. He was chairman of DPC. He performance report bears signature of Shri Jaiswal. Performance report was submitted

before DPC meeting. Performance report of Gopal was not related to the meeting of DPC. The final list by DPC bears signature of Shri Jaiswal. Management's witness was unable to tell whether there was quota of reservation categories in the promotion. He was unable to tell whether there was any post reserved for ST candidate among the 17 candidates. DPC report is produced at Exhibit M-1. Name of workman is at Sl. No. 16 of the candidates not found satisfactory performance and not recommended for promotion. The performance report Exhibit M-2 produced by management shows gopalram Sahu was reported unfit for promotion. Exhibit M-3 performance report of Leelaram Gond shows that Controlling Officer reported he was not fit for promotion. By order Exhibit M-4, Jirman Muleti was promoted as EP Electrician Grade B without monetary benefits. As per Exhibit M-5 workman Lilaran Gond was promoted to EP Fitter Grade I on 1.1.06 on recommendation of DPC. Exhibit M-6 is order of appointment of Lilaran (workman) dated 30.11.88. As per Exhibit M-7 he was regularised on post of Fitter Grade III on 1.5.90. Exhibit M-8 is office order of promotion of 9 persons dated 23.12.94 on recommendation of DPC. Exhibit M-9 is report of DPC.

8. Workman has admitted his name was not recommended by DPC in 1994 for promotion to Fitter Grade II. As his name was not recommended by DPC, claim of workman for promotion cannot be accepted. No evidence is brought on record that any post for ST category was reserved for promotion to the post of Fitter Grade in 1994. Thus claim of workman is not substantiated by evidence on record. Therefore I record my finding in Point No. 1 in Affirmative.

9. In the result, award is passed as Under:-

(1) The action of the management of Gevra Project of SECL in denying promotion to Shri Lilaran Gond from EPF. III to EPF. II is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एलसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 26/ 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं. एल-22012/65/2000-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. No. 26/2004) of the Cent. Govt. Indust. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Jhingirda Project of NCL, and their workmen, received by the Central Government on 10.09.2015.

[No. L-22012/65/2000 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/26/04

Secretary,

Bhartiya Koyla Khadan Shramik Sangh,

PO Jhingurda Colliery,

District Sidhi (MP),

Jhingurda Project.

Workman/Union

Versus

General Manager,

Jhingurda Project of NCL,

PO Jhingurda, Distt. Sidhi (MP).

Jhingurda Project

Management

AWARD

Passed on this 19th day of August, 2014

1. As per letter dated 15.9.2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/65/2000-IR (CM-II). The dispute under reference relates to:

"Whether the action of the Chief General Manager, Jhingurda Project of NCL, PO Jhingurda, Distt. Shdhi (MP) in not giving employment on compassionate ground to son of Shri Ram Lakhan Shukla in terms of Para 9.40 of NCWA V is legal and justified? If not, to what relief is the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/3. Case of 1st party workman is that Mr. Ram Lakhan Shukla was appointed in NCL Singrauli from 20.3.68. He was working with 2nd party. He was promoted time to time. In 1991, Lakhan Sukhlal suffered trouble in his eye and physical weakness. He received treatment in Jayant Hospital, Sidhi. He also received treatment at Netyra Jyoti. Workman was not able to perform his duties due to affected eye sight. As per Clause 9/14 of Bipartite Settlement, workman requested compassionate appointment for his

son Mundrika Prasad who was graduate. The application was submitted on 14.6.94. Shri Lakhan Shukla received expert treatment for his eye in Jayant Hosptial in July 1997. Workman was advised rest for his work. Secondly workman was not on duty. His financial condition was poor. He did not receive any assistance from the management during period of his sickness. Lakhan was examined by Medical Board in Jayant Hospital. On 9.10.98 in order to cause harassment to workman, he was referred to Dr. Rajendra Prasad eye Hospital, Delhi. On 27.11.99, workman was sent for medical examination. The expert had found that there was no possibility of restoring his vision. Shri Ramlakhan was examined by Medical Board on 19.1.99 by Dr. Ojha and Biswas. Workman was found unfit for duty. From fund for employment, help of Rs. 2000 was provided to the workman for treatment of his eye sight. After Ram Lakhan Shukla was declared unfit, he had sent letters dated 9.12.98, 5.3.99, 30.3.99, 14.4.99 for compassionate employment for his son. The compassionate employment was not provided to his son. On such ground workman Ram Lakhan Shukla prays for compassionate employment for his dependent son.

3. 2nd party filed Written Statement at Page 3/1 to 3/8 opposing claim of the workman. 2nd party raised preliminary objection. That workman is not entitled for discretionary relief as he mislead the facts. Workman had not approved with clean hands. His claim deserves to be dismissed. Workman is claiming relief under clause 9.4.0 of NCWA-V. That said clause is not covered by any agreement. 2nd party cannot invoke extra ordinary jurisdiction for implementing said clause. Clause 9.4.0 is reproduced in the Written Statement. The benefit of said clause is restricted up to the age of 58 years. As per said clause, the Committee is required to be constituted for submitting the report. That the last report of Dr. Rajendra Prasad, Althalmic sciences New Delhi. Workman was not found complete blind and unfit for duty. Therefore workman cannot claim benefit of Clause 9/4/0. It is reiterated that relief of compassionate appointment cannot be allowed to the workman. That claim of Ist party workman is based on presumption assumptions cannot be accepted. Ist party workman was negligent in pursuing the matter. He had not approached Dr. V.K. Veda for further treatment as per advice dated 30.11.98. 1st party tried to pressurize through Union for his claim. Workman moved Hon'ble High Court at belated stage.

4. That law does not accept the story, the documents produced on record by 2nd party speaks otherwise. The documents are tampered, fabricated. Workman did not suffer any deformity in his eye. The document produced are written in different handwriting. It is reiterated that workman was having no eye problem as tablet voveran was prescribed for him which is a painkiller, It is denied that

Doctor at Delhi opined that workman is likely to get back his sight, that workman had not followed treatment from the Doctor. Intentionally workman for unlawful gain, the words in Hindi. All contentions of workman relating to eye sight is denied.

5. Workman filed rejoinder at Page 4/1 to 4/2 reiterating contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the Chief General Manager, Jhingurda Project of NCL, PO Jhingurda, Distt. Sidhi (MP) in not giving employment on compassionate ground to son of Shri Ram Lakhan Shukla in terms of Para 9.40 of NCWA V is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

7. In support of his claim, workman filed affidavit of his evidence. Workman stated that in 1991, he got some problem in his eye. He received treatment from Nehru Shatabdi Hospital. Due to weak eye sight, he was having trouble in doing duty. In 1994, he requested to appoint his son on compassionate ground as per clause 9.4.0 of NCWA. He did not get relief in his eyes. He was referred to eye specialized Centre at Nehru Shatabdi Hospital. By that time, he got complete blind in both eyes. Dr. Rajendra Prasad, Delhi declared workman cannot get back his eye sight. On 19.1.99, he was examined before Medical Board. He was declared unfit for service due to blindness. He was retired prematurely on 29.3.99. His son Mundrika Prasad Shukla was major at the time he was examined by the Medical Board. His son was not allowed appointment on compassionate ground as per NCWA-V. In his cross-examination, workman says medical book is given by management for treatment. The treatment given to him is noted in the book. That he has not brought original treatment book. It is not produced in Court. He denies that there are interpolation in treatment book and therefore it is not produced in Court. That he was referred to Medical Board in 1998. He appeared before Medical Board. He was examined before NSC Jayant Hospital for eye treatment. He was advised on 28.11.98 to Nehru Shatabdi Hospital. He was referred to Rajendra Prasad Centre for Alththalmic Sciences, New Delhi. Due to blindness, he could not see

report. He denies that he was referred to Dr. V.K. Dada. That Dr. in NSC Jayant told him he was unfit for any work. He denies that he was found fit for partial work.

8. Management's witness Dr. Subrata Biswas filed affidavit of his evidence. His affidavit is devoted that under Clause 29(d) Medical Examination is done. Clause 29 provides for appeal by Medical Board. Workman appeared before Medical Board in 1997. He was declared fit. Report of Dr. R.P. Centre does not total workman complete blind and declared unfit. Workman was negligent in pursuing matter as advised to Dr. V.K. Dada for further treatment. The diagnosis of Glaucoma cannot be said to total blindness. On perusal of prescription of hospital, it is clear that workman had any difficulty of showing the object in dim light only. Workman is not using glass. He was referred to Dr. V.K. Dada for operation. Management's witness in his cross-examination says he had conducted medical examination of workman. He did not recollect its date, he did not recollect names of other persons examined by him. For examination by Medical Board, 15 days notice is to be issued. Witness of management did not recollect how much percentage he declared unfit. That they had not shown percentage or degeneration but was 60%. 60% degeneration causes vision blink. Such person cannot attend routine work. Workman was referred to AIMS where he was examined.

9. The evidence of management's witness Shri Rajendra Shah deals with NCWA-II providing employment on compassionate ground. Said provision was also included in NCWA-VI. The benefit of said clause is restricted to employees medically unfit if his age is upto 58 years. On 9.10.98, workman was examined by Medical Board, 9.2.99, workman was informed he would be relieved from duty. He was advised to collect his dues. Workman worked till attaining age of superannuation he is not entitled to avail benefit of clause 9.4.0. In his cross-examination, witness of management claims ignorance whether recommendations of Medical Board were accepted. NCL Medical Board declared workman fit is produced. Dr. Thanil and Dr. Vishwas declared fit the workman. In 1994, workman requested to refer him to Medical Board. Workman was examined by Medical Board twice in 1997, 98. Workman was found fit in 1997. Report of examination by Medical Board in 1998 is produced. Workman was to retire in 1999. He denies that workman was prematurely retired. Affidavit of management's witness Shri Khan is filed but he was not made available for cross-examination.

10. The documents produced by workman are zerox copies, no care is taken to prove it by valid evidence. In document Page 2/12 to 2/14, age of workman is shown 59 years on 26.11.98. Zerox of medical report from Dr. Rajendra

Prasad, Althalmic Science. The entire document is written in English. In last sentence, there is no possibility of regaining eye sight is written in Hindi. No witness is examined to prove said document. Copy of mining rules is produced. In Exhibit M-2, Ramlakhan Shukla is reported fit for duty. Said report is dated 15.7.97. Several Zerox copies of documents are produced. In document 14/10, age of workman is shown 29 years when he joined service on 20.3.68. As such workman must have born in the year 1939. He was retired in 1999. Evidence of Management's witness that workman retired after attaining age of superannuation is corroborated. As benefit of clause 9.4.0 is restricted to the employees to the age of 58 years, workman is not entitled to the benefit of compassionate employment for his son. For above reasons, I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:-

(1) The action of the Chief General Manager, Jhingurda Project of NCL, PO Jhingurda, Distt. Sidhi (MP) in not giving employment on compassionate ground to son of Shri Ram Lakhan Shukla in terms of Para 9.40 of NCWA V is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 19/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं० एल-22012/305/2000-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/02) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Kahan Area of WCL, and their workmen, received by the Central Government on 10/09/2015.

[No. L-22012/305/2000-IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/19/02

Secretary,
RKKMS (INTUC),
PO Chandametta,
Chhindwara

.....Workman/Union

Versus

The Director Personnel,
WCL, Coal Estate,
Civil Lines, Nagpur.
The P.M.
WCL, Kahan Area,
PO Dungaria, Chhindwara

...Management

AWARD

Passed on this 14th day of August 2015

1. As per letter dated 3-1-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/305/2000-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of WCL, Nagpur/Kanhan Area in not promoting Kum. Kusum Verma and Ku. Bhagwati Karmarkar Staff Nurses of Regional Hospital, WCL, Kanhan Area and not considering their seniority and also supersession by junior is legal and justified? If not, to what relief they are entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim through Secretary, RKKMS Union. The case of Ist party Union is that both workmen are member of said Union. Workman Ku. Kusum was initially appointed as staff Nurse on 15-11-76 in Technical Grade C. workman Ku. Bhagwati Karmakar was appointed as Staff Nurse Technical Grade Con 13-11-78. Their appointments were made in open selection followed by written test, interview. Both the workmen joined their services at Regional Hospital of WCL, Kanhan Area on respective dates of their appointment. Smt. Rekha Masarkar (Ghosh) was initially appointed as staff nurse T & S Grade C on 4-4-79. On her transfer to Regional Hospital, Kanhan Area, on 1-1-1987, she joined 2nd party. The Smt. Rekha Masarkar (Ghosh) was junior to both of them. The details of the respective appointments are shown in Para 5 of the statement of claim.

3. Though Smt. Rekha Masarkar (Ghosh) is junior to them as per Seniority list in T&S Grade C till 1-1-1994. Surprisingly giving advantage to her, she was shown in T&S Grade B from 7-4-79 is illegal. Both Kusum and Bhagwati were placed in Grade C technical on 15-11-76,

13-11-78 after merger of CMWO staff from 1-3-83. Smt. Rekha Masarkar (Ghosh) was wrongly shown in Technical Grade B is discriminatory. The repeated representation of Ist part workman for correction of seniority list was not considered. Ist party workman Kusum and Bhagwati were not given promotion in technical Grade B over Smt. Rekha Masarkar (Ghosh). Both of them were given upgradation to next higher grade after completion of 10 year service as per order dated 12-12-89. It is submitted that both of them were entitled to promotion in terms of DPC over Smt. Rekha Masarkar (Ghosh) *w.e.f.* 7-4-79. That Ist party workmen were placed in T&S Grade B as per order dated 10-12-94 completing 5 years service in Grade C without DPC as one time arrangements. They joined Kanhan Area Hospital in T&S Grade B on 10-12-94 itself. That both of them were entitled for promotion above Smt. Rekha Masarkar (Ghosh). Both the workmen have reiterated that they are senior to Rekha and ignoring their seniority, Rekha was promoted to the post of Matron T&S Grade A *vide* order dated 10-7-98. Her seniority was overlooked. They had submitted representations. Their seniority was not restored. Cadre Scheme of para medical staff circulated on 15-7-92 was ignored by the management. Both workmen raised the dispute. The dates of appointments of respective workman and Rekha were reiterated contending that both were senior to Rekha. Overlooking their seniority, Rekha is promoted. Both workmen claims that they be given promotion above Rekha in T&S Grade A from 10-7-98.

4. 2nd party filed Written Statement at page 7/1 to 7/11 opposing claim of Ist party workman. Preliminary objection is raised that Rekha was impleaded party to the dispute before RLC. The reference is not tenable. That the date from which promotion is claimed is not given. Reference is vague and not tenable. 2nd party submits that service conditions of its employees are covered by NCWA and guidelines given by JBCCI time to time. WCL is subsidiary to Coal India having its offices at Nagpur. Various collieries spread over MP and Maharashtra are working under WCL. The hospitals were run by welfare Organisation as per order dated 5-1-88 by Govt. of India, Deptt. of Coal. The regional hospitals of CMW at Jamni, Dhanpuri, Kurasia were transferred to WCL. In pursuance of said order employees of the organization become employees of WCL. Rekha after her marriage was offered appointment as per order dated 2-8-83 in pursuance of her transfer of service from CMWO to WCL. Bhagwati was appointed as nurse in Grade C of NCWA as per office order dated 13-11-78. Miss Kusum was appointed as Nurse Technical Grade C as per order dated 15-11-78. The comparative chart of appointments and other details are given in Para-10 of the Written Statement. The services rendered by employees of CMWO are considered for promotion to higher post.

5. As per office order dated 2-1-89, employees of CMWO taken over *w.e.f.* 1-3-83 were placed in the designation and grade engaged against therein. Name of Smt. Rekha Masarkar (Ghosh) was appearing at Sl.No. 7 Staff Nurse Technical Grade C. New designation Sr. Nurse Grade B. The pay was accordingly fixed. *Vide* Head Office Circular dated 15-3-93, provisions of I.I. No. 3 & 17 of NCWA IV were extended to employees of Ex. CMO on similar directions and conditions laid down therein. The service rendered by them prior to take over in the same category was taken into account. II 55 is reproduced. WCL HQ issued letter dated 12-5-98 that WCL decided that the date of effectiveness of the above implementation instructions should be uniform in all the areas and that the date of effectiveness of above placement of staff Nurse Grade B as one time arrangement without DPC was allowed updated seniority list of staff nurse was published by WCL HQ including SC ST candidates on 1-7-99. In accordance with II 55, staff Nurse in T&S Grade C in various units of Kanhan Area completing 5 years service were placed in T&S Grade B. WCL Hq published seniority list of medical staff including staff nurse on 20-6-97. On recommendation of DPC approved by Competent Authority Sr. Staff Nurses T&S Grade B were promoted to the post of Matron T&S Grade A. Rekha was at Sl.No. 3 2nd party denies that Ist party workman are senior to Rekha. Revised cadre scheme for para medical staff nurse JBCCI issued Implementation Instruction No. 41. Staff nurse with Grade A recognized diploma or certificate with 3 year course will be inducted as staff nurse on completion of one year training in Grade C. Qualification will not be barred for existing staff nurse. Zone of promotion upto T&S Grade B will be Area level from T&S Grade B to Grade A at Company level. The representations submitted by workman claiming seniority were rejected. After verifying seniority list dated 20-6-97. Name of Bhagwati was placed at Sl.No. 39. The contentions of Ist party workman that they were senior to Rekha are denied by 2nd party claim of workman for promotion above Rekha is also denied. Seniority list of concerned employee of WCL was circulated inviting objections. Thereafter promotions were made as per the norms. That Bhagwati was promoted as Matron T&S Grade A. It could not be made applicable to the dispute. It is submitted that both workmen cannot be compared with Rekha. She is much senior to both workmen. On such ground 2nd party submits that Ist party workmen are not entitled to any relief.

6. Workman filed rejoinder reiterating their contentions in statement of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---|
| (i) Whether the action of the management of WCL, Nagpur/Kanhan Area in not promoting Kum.Kusum Verma and Ku. Bhagwati Karmarkar Staff Nurses of Regional Hospital, WCL, Kanhan Area and not considering their seniority and also supersession by junior is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workmen are not entitled to any relief. |

REASONS

8. In support of their claim, Bhagwati filed affidavit of her evidence claiming seniority over Rekha claiming that Rekha was appointed on 7-4-79. She was appointed as staff nurse technical Grade C on 13-11-78. After merger of CMWO staff nurse from 1-3-83. On merger, Rekha was placed on Technical Grade C from 1-1-87. Rekha was junior to her. After seniority list published, it came to notice that management has wrongly placed Rekha in T&S Grade B from 4-4-79. She was discriminated. She was not given promotion in technical Grade B over Rekha. She joined Kanhan Area Hospital in T&S Grade B on 10-12-94. However Bhagwati in her cross-examination says she does not recollect contents of her affidavit. She had read the affidavit prepared by her Advocate. Considering her evidence in cross-examination, as she did not recollect the content of her affidavit, her evidence cannot be relied.

9. Kusum filed affidavit of her evidence stating her date of appointment 15-11-76, Rekha was appointed on 7-4-79. On her transfer to Regional hospital, Kanhan Area on 1-1-1987 that Rekha was junior to her. After merger of CMWO staff from 1-3-83, Rekha was placed on technical Grade C from 1-1-87. Rekha was wrongly shown in Technical Grade B from 4-4-79. She claims promotion above Rekha. In her cross-examination, Kusum says that she was appointed on 15-11-76 in Technical Grade C. Bhagwati was appointed on 13-11-78. Rekha was appointed on 7-4-79. Cadre Scheme for nursing staff is introduced. The promotion are given as per cadre scheme. CMWO was running hospitals in the past. From 1-1-83 Coal India is running the hospitals after merge of CMWO, she claims ignorance what option was given by Rekha at the time of merger of CMWO staff. After merger of CMWO junior employees were given their seniority and juniors were retained at same position. She did not see order that the employees working in Coal India were treated senior. That Rekha was appointed as staff

nurse in CMWO in Technical Grade D. however the order of appointment of Rekha in Technical Grade B is not produced. She was promoted in Technical Grade A in the year 2008. Rekha was promoted to Grade A in January 2008. That she and Bhagwati had raised the dispute of seniority. They did not received any information about decision of their representations. There was no reason not to implead Rekha as party before ALC.

10. Management's witness Shri A.C. Kaushik in his affidavit has stated that Rekha was not junior to workmen. The details of their promotion in Grade B, A are shown in para 6 of his affidavit. Rekha is shown in T&S Grade B in 7-4-79 in CMWO. She is shown in T&S Grade A from 1-7-89, T&S Grade from 10-7-98. In his cross-examination, management's witness admits that Rekha was appointed in CMWO in 1979. Ist party workmen were appointed in WCL in 1976, 1978. The employees of other companies joining WCL. Their record of appointment remained in the earlier company. Rekha was shown in Grade B after joining WCL as per the orders of Coal India Head. For promotion in Grade A vacancies and seniority are considered. The cadre scheme was considered while promoting Rekha. She is still continued in service. The representations about seniority submitted by workmen were rejected by the management. Rekha has not adduced any evidence. It is to be noted that the order of appointment in CMWO of Rekha in Grade B is not produced. The evidence of Kusum claims ignorance about the options given by Rekha while joining her service in WCL after merger of employees of CMWO.

11. Documents produced Exhibit W-1 shows appointment of Kusum on 15-11-76 in Technical Grade C. Exhibit W-2 shows appointment of Smt. Rekha on 7-4-79 as Nurse, her technical grade is not mentioned. The documents W-3 to W-8, 11, 12 shows date of appointment of both workmen and Rekha.

12. Learned counsel for 2nd party Shri N. B. Sharma emphasized that dispute is raised belatedly is not tenable. Seniority of Rekha in Technical Grade B shown in 1979 Technical Grade A in 1989 is challenged by raising dispute. In support of above submissions, Shri N.B. Sharma relies on ratio held in Case of Nedungadi Bank Ltd. *versus* K.P. Madhavankutty and others reported in 2002(2) SCC-455. Their Lordship held when dispute becomes stale, held, would depend on the facts and circumstances of each case. In the instant case, the workman was dismissed after lawfully and properly conducting the disciplinary proceedings, his dismissal was upheld in appeal and the benefits legally due to him were paid. 7 long years later he raised a dispute against his dismissal on he ground that two other employees dismissed in similar situation were reinstated. Reference is said dispute at this stage, held,

bad both on the grounds of delay as well as non existence of an industrial dispute.

In present case, both the workmen through Union are challenging seniority of Rekha given in Technical Grade B, Technical Grade A. Even long back in 1983, 97 respectively. Original Technical Grade shown of Rekha from 7-4-79 in the seniority list. The dispute is highly belated and the dispute has apparently ceased to exist as the promotions were given considering the seniority list and cadre scheme therefore I record my finding in Point No. 1 in Affirmative.

13. In the result, award is passed as under:-

(1) The action of the management of WCL, Nagpur/ Kanhan Area in not promoting Kum. Kusum Verma and Ku. Bhagwati Karmarkar Staff Nurses of Regional Hospital, WCL is proper and legal.

(2) Workmen are not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 198/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं एल-22012/490/1995-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 198/96) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Kusmunda Area of SECL, and their workmen, received by the Central Government on 10/09/2015.

[No. L-22012/490/1995-IR(C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/198/96

Regional President,
Sanyukta Khadan Mazdoor Sangh (AITUC),
Q.No. B/269, Adarsh Nagar,
Post Kusumunda Colliery,
Distt. Bilaspur.

.....Workman/Union

Versus

General Manager,
SECL, Kusmunda Area,
Post Kusmunda Pariyojana,
Distt. Bilaspur (MP)

.....Management

AWARD

Passed on this 13th day of August 2015

1. As per letter dated 18-10-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/490/95-IR(C-II). The dispute under reference relates to:

"Whether the action of the management of SECL, Kusmunda Area, Bilaspur in dismissing Shri G.R. Jaiswal, Clerk Grade II w.e.f. 25-3-95 *vide* office order No. GM/KSM/PM/DA/95/4366 dated 25-3-95 is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/3. Case of workman is that he was appointed as mazdoor in 1984. Considering his satisfactory work, he was promoted as Clerk Grade II. Prior to Order of his dismissal dated 25-3-95, chargesheet was issued to him alleging certain misconduct. He had submitted reply to the chargesheet denying charges against him, without considering his reply, Shri R. R. Dubey was appointed as Enquiry Officer. Enquiry conducted against him not legal and proper. He was not given full opportunity for his defence. Enquiry Officer did not explain to him procedure of enquiry. Workman was not asked any question regarding engagement of Defence Assistant. Workman was not allowed to cross examine witnesses of management, he was not given opportunity to produce his witnesses in defence. The principles and natural justice were not followed. Enquiry is illegal. Punishment of dismissal imposed against him is illegal. On such ground, workman prays for his reinstatement.

3. 2nd party filed Written Statement opposing claims of the workman at page 7/1 to 7/2. The appointment of

workman as General Mazdoor Category I in 1984, his promotion as Clerk grade II is not disputed chargesheet issued to workman and order of his suspension is not disputed by 2nd party, workman had submitted reply to the charge sheet. Reply of workman was found not satisfactory. Enquiry was ordered against him, it is denied that the enquiry conducted against workman is illegal. It is denied that workman was not given reasonable opportunity for his defence, 2nd party reiterates that enquiry was conducted as per laid down procedure. Workman was allowed to defend charges with held of co-worker. Fair opportunity of defence was allowed to the workman. It is denied that Enquiry Officer not followed principles of natural justice. That charges against workman were proved, minimum punishment is imposed considering gravity of misconduct. It is denied that past record of workman was not considered.

4. As per order dated 20-6-2014, enquiry conducted against workman is found legal.

5. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) whether the charges alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (iii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. Enquiry conducted against workman is found legal. Therefore the point whether charges alleged against workman are proved needs to be decided from evidence in Enquiry Proceedings. 2nd party has produced copy of judgement in Criminal Case No. 24/04, said judgment shows that workman was accused No. 1 along with other 5 accused. All of the accused including workman were convicted for offence under Section 13(1) (d) read with 13(2) Prevention of Corruption Act read with Section 120-B IPC and different sentence extending 3 years and fine Rs. 20,000 etc. was imposed. The appeal No. 32/12 is filed by Teertankhar Banu-accused No. 6 in the case. There is no document that conviction of Ist Party is challenged before superior court filing appeal. In its judgement, special court, CBI had discussed evidence against workman at Page 13, 20. That

Committee was constituted at instance of accused regarding payment of bills with National Trade Centre in the year 1992-93. The Committee submitted report that bill passing officer Karba was not guilty. As per the report of the Committee, Shri G.R. Jaiswal *i.e.* workman was suspected. AT page 23 of the judgment, evidence of witness Puran Singh is considered that the witness had state that accused G.R. Jaiswal *i.e.* workman had given requisition for printing 10,000 requisition forms. He printed 10,000 forms. Exhibit P-6 is requisition form got printed by Shri Jaiswal *i.e.* Ist party workman, the bill Exhibit P-22 dated 10-8-92, Bill Ex P-20 dated 20-8-93 were the proforma printed in Krishna Printing Press. The seals Article A,B were prepared but not given to Shri Jaiswal. Said witness in his further evidence has stated that Exhibit P-2 Banking opening form was signed by him as introduced. That he had not received amount for printing of 10,000 requisition forms. Said witness had admitted that he was knowing while signing account opening from that accused Shri G.R. Jaiswal opened account in name of firm to be used for the business. I need not discuss the evidence considered while convicting workman and other accused. It is surprise to say that workman was convicted along with other accused and no document is produced that his conviction was set-aside or challenged before superior court.

7. Turning to the evidence in Enquiry Proceedings, It is necessary to consider the charges alleged against workman. The charges are narrated in his report by Enquiry Officer about payment made to National Trade Centre Rs. 1,59,000, 6,03,215/- & 1,45,600/- preparing bogus bills and attempt to get payment of Rs. 4,09,418 by delinquent under Clause 26.1. The argument advanced by counsel for Ist party Shri S. Mishra that chare against workman was not about forgery, Merely workman had forwarded the bills as party of his official duty cannot be accepted. The witness of management Shri V.N. Bandopadhyay has narrated about presentation of bills to different amount before him. Mr. Pradhan told that the order was not given for the amount shown in the bills. That the information was given to Genral Manager and enquiry was made in the matter. That witness Puran Singh was taken in custody. The facts disclosed that Shah was relatie of Shri G.R. Jaiswal Clerk Grade II in Regional Store *i.s.* Ist party workman. That Shri G. R. Jaiswal was involved in transaction. Shri Shah was told by Jaiswal for printing of the stationery (letter pad) in name of National Trade Centre, Calcutta, Jaiswal had suggested for opening current account and Puran Singh as witness/guranter should sign. If entire evidence of Puran Singh is considered, the argument advanced by Shri S. Mishra on behalf of workman that there is no evidence against workman by the management's witnesses cannot be accepted. Evidence of MW-2 Rajesh Kumar is on the

point of taking entries in ward register Sl. No. 1528, 1395, Management's witness Shri S.K. Pradhan says about 3 bills of different amount received dated 14-3-94, 27-3-94 its entry was taken in inward register. The purchase order in respect of those bills was not issued from purchase department. Statement of MW-4 A. G. Karva is on the point that 3 bills of different amount dated 27-3-94, 14-3-94 were bogus, purchase order was not issued *w.r.t.* both the bills. MW-5 P. Anirudhhan in his statement explained that he along with Shri G. R. Jaiswal jointly made enquiry from day book, goods receipt register, bills forwarding register etc. In his cross-examination, he says Shri G.R. Jaiswal Clerk Grade II was forwarding bills for payment to Accounts office putting his initials on the forwarding letter. In store dispatch register, Shri Jaiswal was making entry to forwarding letter writing number in peon book was sent to Accounts office. *W.r.t.* writing double numbers 718, 418 to 738/438, he claims ignorance and says that Shri Jaiswal asked about the same. Charge is about payment on bogus bills made in National Trade Centre not only forwarding the bills by Ist party workman. There is some evidence in Enquiry proceedings whereas workman was convicted for offence under Section 13(1)(d) read with 13(2) Prevention of Corruption Act by Special Court, CBI. The corruption of workman is not challenged in appeal. Workman is not acquitted by superior court. Therefore the findings of Enquiry Officer supported by some evidence cannot be said perverse. In criminal case, burden of proof lies to prove charges beyond reasonable doubt. When charges are held proved by Special CBI Court is also piece of evidence against workman. For reasons discussed above, I record my finding in Point No. 1 in Affirmative.

8. Point No. 2-In view of my finding in Point No. 1 charge relating to payment on 3 bogus bills is proved against workman and other persons involving Ist party is convicted in Criminal Case along with other 5 accused,. The proved charge is of serious nature.

9. Learned counsel for 2nd party Shri A.K. Shashi relies on ratio held in :

Case of Jaishankar *versus* Government of India and another reported in 1996(6) SCC 204. Their Lordship dealing with conviction for Section 509 held involves moral turpitude, hence where such conviction attained finality, although the amount of fine imposed was below Rs. 2000, dismissal of the convict worker from service was upheld.

In case of Karnataka Bank Ltd. *versus* A. L. Mohan Rao reported in 2006 (I) SCC 63. Their Lordship dealing with matter Branch Manager charged with gross misconduct of granting fictitious loan. Their Lordship held if gross misconduct of this nature does merit dismissal, it cannot

be seen what other type of misconduct would merit dismissal. It is not for courts to interfere in cases of gross misconduct of this nature with decision of disciplinary authority on any mistaken notion. of sympathy, so long as inquiry has been fair and proper and misconduct proved.

In case of Nand Kishore Prasad *versus* State of Bihar and other reported in 1978(3) SCC 366 their Lordship considering before the delinquent officer is found guilty of charge there must be some evidence. Their Lordship held authority must act without bias and predilection and must pass speaking orders discussing evidence.

Copies of award in R/117/97 & 38/90 are also submitted for perusal. Each case needs to be decided considering evidence on record, the evidence discussed while dealing with Point No. 1 and Ist party workman has been convicted by CBI Special Court for payment of 3 bogus bills, punishment of dismissal imposed against workman cannot be said excessive or exorbitant. Dismissal of Ist party workman doesnot call interference by this Tribunal. I record my finding in Issue No. 2 in Affirmative.

10. In the result, award is passed as under:

(1) The action of the management of SECL, Kusmunda Area, Bilaspur in dismissing Shri G. R. Jaiswal, Clerk Grade II *w.e.f.* 25-3-95 is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 277/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं. एल-22012/382/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 227/99) of the Cent. Govt. Indus-Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Khurja Sub Area of SECL, and their workmen, received by the Central Government on 10.09.2015.

[No. L-22012/382/1998-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/227/99

Secretary,
Koyla Mazdoor Sabha (UTUC),
Jhimer Colliery,
Shastri Nagar,
PO Jhimer Colliery,
Distt. Shahdol.

Workman/Union

Versus

Sub Area Manager,
Khurja Sub Area of SECL,
PO Bijuri,
Distt. Shahdol (MP)

Management

AWARD

Passed on this 4th day of August, 2015

As per letter dated 22-6-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-22012/382/98/IR (CM-II). The dispute under reference relates to:

"Whether the action of the Sub Area Manager, Khurja Sub Area of SECL, PO Bijuri Distt. Shahdol in dismissing Shri Shivcharan S/o Shivdayal General Mazdoor w.e.f. 5-8-97 is legal and justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. 1st party workman submitted statement of claim at Page 4/1 to 4/5. Case of 1st party workman is that he was employed as General Mazdoor in SECL in 1996. He was working with dedication. He was on sick leave in July 96. After recovery of illness, he reported on duty on 1-8-96 to Shri Nagendra Pratap Singh. Workman requested Shri Nagendra Pratap to allow him on duty. He was not allowed to join duty instructing workman to report to Shift In-charge. When workman reported shift In-charge, he as instructed to report to Mr. Choudhary, Mr. Choudhary asked workman to go to shift in-charge and advise to make request for allowing him to join duty. Workman was kept dangling and now allowed to join duties. Workman tired of his efforts came back to Cigarette Stall. He had seen Shri V.K. Singh sitting in a jeep far there. Workman went to Manager requesting him to join duty, Manager without loosing a minute came out of a jeep and slapped 2-3 times to workman. Workman was saved by other peoples. Manager left the place.

3. Workman further submits that once again he requested shift in-charge to allow him on duty but he

requested. Workman was told that he was trying to become leader, duty will not be given to him. He was also told that Shri V.K. Singh Manager was inspected not to take him on duty. Workman started shouting, he requested belt operator to stop the belt. He also asked Shift in-charge to stop belt till the question of taking him on duty was decided. Thereafter workman was forcibly taken in jeep to police station. Charge-sheet was issued to workman on 5-8-96. The allegations against him were about gambling, fighting, disobedience, abusing co-worker and willful damage, Workman denied charges against him management without considering reply to the charge-sheet initiated DE. 3 witnesses were examined by management. Witness Digambar Singh admitted he was not present at site of incident. He made false statement that workman was under influence of liquor. Enquiry was conducted in casual manner. The statements of witnesses were contradictory. Enquiry was conducted in hurry. Workman was not allowed opportunity for his defence. Enquiry Officer submitted report without applying his mind. Vital contradiction in evidence of management's witness were not considered. Show-case notice for dismissal was issued to him. Workman replied to said show-case notice pointing out contradictory evidence of management's witnesses. Punishment of dismissal was imposed as per order dated 5-8-99. It is submitted that punishment of dismissal is illegal. Workman was discriminated. He was harassed by all the persons. He was not allowed to join duty. On such ground, workman prays for setting aside order of his dismissal and reinstatement with consequential benefits.

4. 2nd party filed Written Statement at Page 5/1 to 5/9 opposing claim of the workman. Case of 2nd party is that workman was working as General Mazdoor Category-I. on 1.8.96, management received complaint that workman was under intoxication came to time keeper office at 5 PM. Workman was insisting to mark his attendance. Entry Clerk refused to mark his attendance. Then workman gone to Under Manager Shri Pradhan threatening him of serious consequences if his attendance was not marked. Workman was unauthorisely absent. Shri Pradhan tried to get information about it. It is further contended that workman had ran and switch off the main belt causing obstruction in production. When belt operator started switch again, workman stopped the belt. Workman was then taken to police station. Charge sheet was issued to workman for misconduct under Clause 26.4, 28.18, 26.23. The details of those clauses are reproduced in Para-10 of the Written Statement. That Enquiry Committee was constituted. Enquiry was conducted giving opportunity for defence to the workman, principles of natural justice were followed. The charges against workman were proved. Workman was dismissed from service. Workman had participated in enquiry. It is reiterated that workman was unauthorisely absent. Under intoxication, he had indecently behaved with his superiors. Workman was taken to police station. After show-cause notice, workman was dismissed.

5. Workman filed rejoinder at page 6/1 to 6/3 reiterating his contentions in statement of claim.
6. 2nd party field reply to rejoinder at Page 13/1 to 13/2 reiterating his contentions in Written Statement.
7. As per order dated 12-12-12, enquiry conducted against workman is found legal and proper.
8. Considering pleadings on record and findings on preliminary issue, the points which arise for my considerations and determination are as under. My findings are recorded against each of them for the reasons as below:—
 - (i) Whether the charges alleged against workman under clause 26.4, 26.18 & 26.23 are proved from evidence in Enquiry proceedings? Partly in Affirmative
 - (ii) Whether the punishment of dismissal imposed against workman is proper and legal? In Negative
 - (iii) If not, what relief the workman is entitled to?" As per final order

REASONS

9. Enquiry conducted against workman is found legal. Charges-gheet Exhibit M-5 is clear that charges against workman were under Clause 26.4, 26.18 & 26.23. charge under Clause 26.4 pertain to gambling, drunkenness, riotous or indecent behaviour place of work. Clause 26.18 pertains to assault, attempt to assault, threatening to assault, abusing co-worker or superior while on duty. Charge No. 26.23 pertains to causing willful damage to the property of company. As enquiry conducted against workman is found legal, whether charges against workman are proved needs to be decided from evidence in Enquiry Proceedings. Management's witness Shri Digambar Singh in his statement before Enquiry Officer says when he went there, workman was talking with Mr. Pradhan, workman was saying that his attendance should be marked. Shri Pradhan refused to mark his attendance. On that workman said how his attendance should not be marked, he would see him, then workman stopped the switch of belt. The belt was stopped. Then workman went to belt and sat on it. He was trying to jump from the belt. Workman was caught from the place and taken away. Management's witness Shri Pradhan in his statement says he was setting the set. Workman Shri Shivcharan came to him at 5 PM. He had shown sick fit certificate and requested to allow on duty. He was beating the table by his hand. Workman said if he was not allowed on duty, he would see him. He will destroy the canes. Workman said he would show him immediately. He went to the belt operator giving threats to the Belt Operator, he switcheed off the belt. Management's witness Krishna

Kumar in his evidence says that at 5.10 PM, workman came under intoxication near switch and asked to stop the belt till his attendance was marked. When workman came near the belt, he had stopped the switch. Workman was under intoxication, his mouth was smelling. Workman was called to Shift Manager. Again he had come near the switch. Witness had stopped the switch. Witness had stopped the switch. The belt was not operating. Belt was started at 5.30. for about 20 minutes, belt was stopped.

10. The evidence is not required to be re-appreciated but evidence of all management's witnesses is not consistent. Witness Digambar Singh and A.K. Pradhan says switch was stopped by workman whereas belt operator Krishna Kumar says that switch was stopped by him, as per evidence in cross-examination of Digambar Singh, workman was taken to police station. Police had given 2-4 slaps to workman saying that always he was disorderly behaving under intoxication. As per management's witness. A.K. Pradhan, workman had climbed ladder of the main belt and threatened to jump. Other witnesses have not stated about it. Shri A.K. Pradhan says workman was referred for medical examination about intoxication. Medical reported is not produced. Shri Krishna Kumar in his evidence says workman was smelling intosicating. Other witnesses did not tell about it. Evidence cannot be re-appreciated. Shri Digambar Singh in his cross-examination says he was not present at the place of incident therefore his evidence cannot be accepted. Shri A.K. Pradhan in his cross-examination says he had not signed sick certificate brought by workman evidence of all management's witnesses is consistent on point that workman was insisting that he was allowed on duty. He was saying until his attendance was marked or allowed on duty, belt would not operate. Workman was asking to stop the belt. Shri Nagendra Singh in his cross-examination says workman had not misbehaved with anybody. Workman was shouting. The belt was stopped twice. As per evidence of management's witness MW-1 belt was stopped for about 5 minutes, as per MW-3, belt was stopped for about 20 minutes. Statement of workman was redorded. He stated that when he was not allowed to join duty despite fitness certificate he was insisting for duty. When he gone to the Manager, he given slap to him. If entire evidence is considered, the charge w.r.t. assault cannot be established. The charge about drunkenness/intoxication also cannot be established from oral evidence of management's witness as Medical Certificate is not produced despite the workman was referred for medical examination. The evidence on reocrd that workman was insisting for joining duties. He had gone towards the belt he was shouting requesting to stop the belt shows that behaviour of workman was riotous and disorderly. The evidence of management's witness about causing damage to the property is silent. Charge under Clause 26.23. doesnot include loss caused to the management. The evidence is consistent on the point that

belt was stopped for about 5-20 minutes causing obstruction to the production.

11. Learned counsel for 2nd party Shri A.K. Shashi relies on ratio held in

Case of West Bokaro Colliery (TISCO Ltd) *vs* Ram Pravesh Singh reported in 2009-I-LLJ-220(SC). Their Lordship held standard of proof in departmental proceedings is different from that in criminal case.

In case of Commissioner of Police *versus* Jayasurian and another reported in 1997(6) SSC-75. Their Lordship held considering inconsistency very minor order or removal from service passed by Competent authority on the basis of report held there was no infirmity in approach of the competent authority in appreciation of evidence adduced in the enquiry. The Tribunal in exercise of power of judicial review was not justified in interfering with the finding of the Competent authority that charge against the delinquent was passed.

In case of Krishanakali Tea Estate *versus* Akhil Bharatiya Chah Mazdoor Sangh and another reported in 2004(8)SSC-200. Their Lordship held even proceeding on the basis that the charge not framed namely of extortion has not been legally established and ought not be considered as misconduct the other established misconducts of causing damage of property, gherao of the management and wrongfully confining the manager are severable and are by themselves sufficient and grave enough to establish misconduct punishment under the Standing Orders applicable to the workmen concerned.

In present case, charge of disorderly behaviour of workman is supported by cogent evidence of management's witness. The charge of intoxication is not established. The charge under Clause 26.23 causing damage to the property is also not supported by evidence. To conclude their evidence of management's witnesses charge under Clause 26.4 w.r.t riotous and disorderly behaviour is established. Charge under clause 26.18 assault, attempt to assault, threatening to assault co-workers, charge under Clause 26.23 causing willful damage to the property of the company are not proved. Therefore I record my finding in Point No. 1 partly in Affirmative.

12. Point No.2- charge under Clause 26.24 of disorderly and riotous behaviour is proved from evidence of management's witness in Enquiry Proceedings. Question arises whether punishment of dismissal imposed against workman is proper and legal. The circumstances need to be considered. The evidence of management's witness is clear that workman was on sick leave. He has come with fitness and requested to allow to join duty. He was not allowed to join duty. Workman was dangled to shift in-charge and others. The intention of workman is clear that he was interested to join duty. He had no intention to assault or disorderly behave or abuse anybody. When

workman was not allowed to join duty, workman in order to join duty, started shouting and rushed towards the belt. Looking to the workman coming towards belt, belt operator had himself switched off the belt. Workman was threatening the belt should not be operated till he was allowed to join duty. Such behaviour appears on account of refusal to join duty to the workman, on the point of punishment, learned counsel for 2nd party Shri A.K. Shashi relies on ratio held in case of

MP, Electricity Board *versus* Jagdish Chandra Sharma reported in 2005(3) SCC-401. Their Lordship dealing with proportionality of punishment dismissal for breach of discipline at workplace by employee. In such a case it is not open to Labour Court of Industrial Tribunal to take the view that the punishment awarded is shockingly disproportionate to the charge proved. Their Lordship held discipline at workplace is a sine qua non for the efficient working of the organization.

In present case, there is no evidence that the workman had physically assaulted any superior therefore ratio cannot be applied to present case.

In case of Mahindra and Mahindra Ltd. and N.B. Naravade reported in 2005-1-LLJ-1129. Their Lordship held on facts use of abusive, filthy language against superior officer held did not call for lesser punishment than dismissal.

In present case, the evidence of management's witnesses is silent about abuses to the officer by workman, the ratio cannot be applied to present case.

Reliance is also placed on ratio held in case between UP State Road Transport Corporation *versus* Subhash Chandra Sharma reported in AIR 2000 SC-1163.

Their Lordship held that punishment of dismissal for misconduct of abusing and threatening under drunken state is not disproportionate.

In present case, charges of drunkenness condition, abusing in indecent language with the colleague cannot be established. Therefore ratio cannot be applied to case at hand.

In case of Emco Transformers Ltd. *versus* S.P. Shouche and another reported in 1997 LLR 649. Their Lordship of Bombay High Court held that Labour Court disbelieved direct witnesses deposing of the incident of misconduct by respondent No. 1 Labour Court directed reinstatement of the workman and backwages was set-aside. The oral evidence is discussed above.

Only charge under 26.4 of standing order is established. Other charges are not supported by cogent evidence. Therefore ratio held in the case cannot be applied to present case.

Ratio held in case of State Bank of India and others *versus* Ramesh Dinkar Punder reported in 2006(7) SSC-212

cannot be applied to case as the nature of misconduct proved is entirely different.

In present case, the evidence clearly shows that workman had gone with fitness certificate for joining duty. He was not allowed to join duty and thereby workman was insisting to stop belt his matter of joining duty was decided. Workman has not stopped the switch of belt, it was stopped by operator therefore punishment imposed against workman is shockingly disproportionate. If one same day, workman would have allowed to join duty, the incident would not have been occurred.

Learned counsel for 1st party Shri K.C. Ghildiyal submits that the circumstances be considered that workman had gone for joining duty after sick leave. He was not allowed to join duty. The punishment of dismissal is illegal.

13. Learned counsel relies on ratio held in.

Case of State of UP and others *versus* Ram Daras Yadav reported in 2010(2)SCC-236, A.L. Kalra *versus* Project and Equipment Corporation of India Ltd. reported in 1984(3) SCC-316, Om Kumar and others *versus* Union of India reported in 2011(2) SCC-386. The facts of present case are not comparable. Ratio cannot be applied to present case. The punishment of dismissal is imposed against workman. All charges are not proved against workman. Only charge under 26.4 is proved. The punishment of dismissal is justified. Considering the nature of proved charge, minor punishment like withholding 2-3 increments should have been appropriate in the case.

14. However the counsel for 2nd party Shri A.K. Shashi pointed out my attention to the age of the workman in affidavit of evidence as 67 years. Though learned counsel for workman tried to say that workman has not attained age of superannuation as per his date of birth, no evidence in that regard is produced. Therefore minor punishment withholding increment is not possible to be imposed. Punishment of dismissal is disproportionate to prove charge under Clause 26.4. the circumstances cannot justify awarding reasonable compensation to the workman. In my considered view, compensation Rs. 2,50,000/- and retiral benefits would be appropriate. Accordingly I record my finding in Point No. 2.

15. In the result, award is passed as under:-

- (1) The action of the Sub Area Manager, Khurja Sub Area of SECL, PO Bijuri Distt. Shahdol in dismissing Shri Shivcharan S/o Shivdayal General Mazdoor w.e.f. 5-8-97 is not legal and proper.
- (2) The order of punishment of dismissal is quashed. 2nd party is directed to pay compensation Rs. 2,50,000 to the workman.
- (3) 2nd party shall also allow retiral benefits to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B.PATLE, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का०आ० 1845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1336/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.09.2015 को प्राप्त हुआ था।

[सं. एल- 23012/4/2006-आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1336/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of BBMB, and their workmen, received by the Central Government on 10.9.2015.

[No. L-23012/4/2006-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1336/2007

Registered on 14.09.2007

Sh. Vinod Kumar, S/o Late Sh. Tek Chand, R/o VPO Gumma, Tehsil Joginder Nagar, Mandi (H.P.)

...Petitioner

Versus

1. Spl. Secy., Bhakra Beas Management Board, Sec-19-B, Madhya Marg, Chandigarh
2. The Resident Engineer, DPH, BBMB, P.W., Slapper, Himachal Pradesh.

...Respondent

APPEARANCES

For the Workman Sh. Manjit Dhiman, Adv.

For the Management Sh. Ravinder Sharma, Adv.

AWARD

Passed on 30.7.2015

Central Government *vide* Notification No. L-23012/4/2006-IR(CM-II)) Dated 02.08.2007, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act.

"Whether the action of the management of BBMB in terminating the services of Sh. Vinod Kumar *w.e.f.* 14.10.2005 is legal and justified? If not, to what relief is the workman entitled?"

The facts, in brief, are that Sh. Tek Chand, father of the workman was a permanent employee of Punjab State Electricity Board and was allocated to BBMB. Sh. Tek Chand expired on 20.2.2003 while in service. Consequently, the workman being son of Sh. Tek Chand applied for an appointment on compassionate grounds with the BBMB and he was appointed as T-mate by the Resident Engineer, DPH Division, BBMB (PW), Slapper (HP) *vide* letter dated 7.7.2003 in the pay scale of Rs. 2720-4300.

The workman joined the services on 9.7.2003 on regular vacant post for 89 days at the first instance and thereafter, he continuously remained in service for more than Two years.

It is pleaded that the Resident Engineer *vide* his letter dated 13.10.2005 (Annexure R-15) terminated the services of the workman and the same is illegal as there was no reason to terminate his services, and the services of the other persons similarly placed were regularized. It is also pleaded that there is a violation of provisions of Section 25(G) & 25(N) of the Act. He has prayed that he be reinstated in service with all consequential benefits.

Respondent Management filed written statement pleading that the workman was not appointed on Compassionate Grounds but was appointed on temporary basis for 89 days only as T-mate as per guidelines issued by the Board *vide* letter dated. 24.8.1990 and 21.3.1991 *i.e.* Annexure R-1 & R-2. It is further stated that the conditions for giving employment on compassionate grounds to family members of board's own recruited employees, and that of other Departments/Electricity Boards are different and the applications of the dependants of employees of other departments for employment are sent to the parent department/Electricity Boards. Case of the workman was taken up with the PSEB *vide* different letters to give him employment on compassionate grounds and in the meantime, he was given extension in service from time to time. PSEB has informed that a sum of Rs. 3 lac is being given as Solatium in lieu of Compassionate Appointment in view of the new policy dated 23.11.2004. It was the PSEB who was to give employment to the workman.

Since the workman was employed on contract basis for 89 days, the services were ordered to be terminated along

with others in view of the letter dated 10.10.2005(R-13) issued by the Special Secretary, BBMB and accordingly, the letter dated 13.10.2005 was issued.

Parties were given opportunity to lead evidence.

In support of his case, the workman appeared in the Witness box and filed an affidavit supporting his case as set out in the claim statement.

On the other hand, Sh. G.C. Sharma, Resident Engineer was examined who filed an affidavit reiterating the case of the management as stated in the written statement.

Both the counsels carried me through the different letters issued by the Board and argued at length in favour of/ against regular appointment to the dependants of the employees who died while serving with the Board. But this Court need not consider whether the workman was entitled for getting regular service with the Board or not. As per the Terms of Reference, it is only to determine whether termination of the workman *w.e.f.* 14.10.2005 is legal and justified.

The contents of the appointment letter dt. 7.7.2003 (Annexure-1) shows that offer was given to the workman for the post of T-mate on contract basis for 89 days. Thereafter, he was continuously given extension and as per his case in para 4 of the claim statement, he continuously remained in the service up to 14.10.2005 which is not controverted in the written statement. Letter dated 10.3.2005 (Annexure R-5) shows that the workman was given extension for the 8th time. Thus the workman continuously remained in service with the Board.

There is nothing is on the file that there was any break in service and rather letters (Annexure R-4 & R-5) shows that extensions were given prior to the expiry of the previous periods. Thus the workman continuously remained in service for the period 9.7.2003 to 14.10.2005.

Now the question is whether the services of such a person who remained in continuous service for more than 2 years, though was given extensions for 89 days can be 'retrenched'. The relevant portion of termination letter dated 13.10.2005 (Annexure-R-15) are as follows:—

"As per Board's decision on the subject as circulated *vide* spl. Secy. No. 8648-52 R&R 329 R-2/L-37/L- dt. 10.10.2005 CE/SO BBMB (PW), Chandigarh No. Fax Message dt. 11.10.2005 and SE/DPH Circle, BBMB(PW) Slapper Endst. No. 17298 dt 11.10.05, your services are hereby dispensed with effect from 15.10.05 A.M. in accordance with the terms and conditions of your letter of appointment.

A bank draft cheque No.G-587438 dt. 14/X/05 drawn on State Bank of India Slapper for Rs. 11544/ (Rs. Eleven Thousand Five Hundred Forty Only) an account of the following dues as admissible under the Industrial Dispute Act, 1947, is enclosed"

Thus the letter was issued on the basis of letter dt. 10.10.2005 of Spl. Secy, BBMB. The relevant portion of the letter dt. 10.10.2005 (Annexure R-15) is read as under:—

"Approval of Chairman, BBMB is hereby conveyed for giving extension in service to the dependants of the deceased PWEB employees (11 Nos. as per list Enclosed) up to 15.10.2005, notwithstanding the dates on which their previous spells have expired.

The service of above employees shall be terminated by the respective Head of Deptt. by fulfilling the requirements of section 25F of ID Act by giving each of them retrenchment compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months) and one month wages in lieu of notice."

"The perusal of the letter dated 13.10.2005 shows that the Chairman of the Board has given approval for extension in service to the dependants of the deceased PSEB employees up to 15.10.2005 but in the 2nd para, the Spl. Secy. BBMB ordered to terminate the services of the employees as per Section 25F of the Act. This letter does not show whether it was the Chairman who approved the termination of the services of the employees. The approval given by the Chairman for termination of the services of the employees has not been brought on record. It is not clear whether the Spl. Secretary was competent to order the termination of the employees. Thus it cannot be said that 'retrenchment' has been ordered by the Competent Authority, and being so, the termination order dt. 13.10.2005 (Annexure R-15) on the basis of letter dated 10.10.2005 (Annexure R-13) cannot be termed as legal and valid.

It has been specifically ordered *vide* letter dated 13.10.2005 to fulfill the requirement of section 25F of the Act meaning thereby, that the employee was 'retrenched'.

'Retrenchment' is defined under section 2(oo) of the Act which read as under:—

"retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) ²termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the

workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

- (c) termination of the service of a workman on the ground of continued ill-health;]

The perusal of the provisions shows that the services of the workman can be terminated for any reasons whatsoever meaning thereby that the employer has to give the reasons for retrenching the employees in every case covered under the said clause.

Neither the Spl. Secy., nor the RE, DPH(PW), Slapper had given any reasons for retrenching the workman *i.e.* whether the workman was retrenched on account of completion of works/financial constraints/organization of labour/some regular appointee joined, etc.

Thus the services of the workman were terminated without any reasons and that too the order for the same was not passed by the Competent Authority; and as such, the 'retrenchment' is bad in law and termination of services of the workman on 14.10.2005 is illegal and unjustified.

The next question is whether the workman is to be reinstated in service and, if not, be paid compensation.

The workman was initially appointed for 89 days. It is not the case of the respondent-management that his appointment was illegal and rather pleaded that he was appointed as per policy issued by the Board *vide* their letters dated 24.8.1990 and 21.3.1990 (Annexure R1 and R2). The relevant portion of letter dated 24.8.1990 (Annexure R1) read as follow:—

"The Chief Engineers, the FA&CAO and the Secretary are hereby authorized to give employment on compassionate grounds to a member each of family of the deceased State Government/Electricity Boards allocated employees (who dies while working in BBMB) for only one spell of 89 days on 'contract basis' against the existing regular vacant posts/vacancies".

The relevant portion of letter dated 21.3.1991 (Annexure-R2) read as follows:—

"In case regular employment to such dependants is not given by the State Govts/Elecy. Boards within the first spell of 89 days, subsequent employment for 2nd and 3rd spells of 89 days each may also be given by the Chief Engineers, the FA&CAO and the Secretary".

The workman was to be given three spells of service on compassionate grounds but he was given extension in service from time to time and allowed to complete two years of service. The workman specifically pleaded in the statement of claim that he joined the service on 9.7.2003 and continuously remained in service for two years. This fact is not controverted by the management in written reply.

When the workman continuously worked for one year, the protection of Section 25F of the Act became available to him, and giving extensions, as per the policy laid down *vide* above said letter is only a surplusage. Similarly by mentioning the words on "Contract Basis" in appointment letter, also lose its importance. It seems that the management was aware of this and on that account, the services of the workman were ordered to be 'retrenched', and retrenchment is illegal as discussed earlier.

Since the workman was appointed legally as discussed, and his retrenchment is illegal, he is to be reinstated in service.

It is not the case of the workman that he remained without work after the termination of his services nor any cogent evidence has been led to that effect in this respect but considering the totality of the facts, he is to be awarded 25% of the back wages.

In result, the reference is answered, holding that the action of the management in terminating the services of the workman *w.e.f.* 14.01.2005 is illegal and unjust' and workman is to be reinstated in service on the same terms and conditions on which he worked. The management shall reinstate him in service within one month, and pay arrears of back wages within two months of the publication of the award. The management is at liberty to recover the amount so paid from the officers who are responsible for passing an illegal order, as per law.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का० आ० 1846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1309/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 प्राप्त हुआ था।

[सं० एल-23012/1/2007-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 1309/2007 of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of BBMB, and their workmen, received by the Central Government on 10/09/2015.

[No.L-23012/1/2007-IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Shri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1309/2007

Registered on 4.7.2007

Sh. Satish Kumar, S/o Sh. Shiv Kumar, Vill. Dohnal, P.O. Daroli, Tehsil Anandpur Sahib, Ropar.

Petitioner

Versus

1. The Special Secretary, Bhakra Beas Management Board, Sector 19-B, Madhya Marg, Chandigarh.
2. The Chief Engineer/Generation, Bhakra Beas Management Board (Power Wing), Nangal Township.
3. The Financial Advisor & Chief Accountant Officer Bhakra Beas Management Board, Nangal Township.

Respondent

APPEARANCES

For the workman Sh. Manjit Dhiman, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 30.7.2015

Central Government *vide* Notification No. L-23012/1/2007-IR(CM-II) Dated 26.06.2007, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of BBMB in terminating the services of Sh. Satish Kumar *w.e.f.* 14.10.2005 is legal and justified? If not, to what relief is the workman entitled?"

The facts, in brief, are that Sh. Shiv Kumar, father of the workman was a permanent employee of Punjab State Electricity Board and was allocated to Bhakra Beas Management Board. Sh. Shiv Kumar expired on 1.4.2001 while in service. The workman, being son of Sh. Shiv Kumar, applied for appointment on compassionate grounds with the Board, and he was appointed as Steno Typist by the Chief Engineer, Nangal, *vide* letter dated 20.6.2001 (Annexure 1), in the pay scale of 3480-6500.

The workman joined the service on 5.7.2001 on regular vacant post for 89 days and thereafter he continued in service for four years. It is pleaded that FA & CAO terminated his services, by issuing termination letter dated 14.10.2005 (Annexure R14) on the basis of letter dated 10.10.2005(Annexure-R13) issued by the Special Secretary

of the Board. That the termination of the services is illegal as the services of the workmen similarly placed were regularized and no reason has been given for terminating his services. There is also violation of Section 25G and Section 25N of the Act. It was prayed that he be reinstated in service with all the benefits.

Respondent management file written statement pleading that the workman was not appointed on compassionate grounds but was given appointment for 89 days on temporary basis as per guidelines issued by the Board, *vide* letter dated 24.8.1990 and 21.3.1991 (Annexure R3 and R4). It is further pleaded that the condition for giving employment on compassionate grounds to family members of the Board's own recruited employees, and of other departments is a different and the applications of persons belonging to other departments/Electricity Departments are sent to the parent department/Electricity board for giving employment on compassionate grounds. The case of the workman was taken up with the Punjab State Electricity Board *vide* different letters and in the meantime he was given extension in service. Now the Electricity Board has informed that a sum of Rs. 3 lac is being given as solatium in lieu of compassionate appointment *vide* its policy dated 23.11.2004. Since the workman was employed on contract basis for 89 days, his services were ordered to be terminated along with others in view of the letter dated 10.10.2005 (Annexure R13) issued by the Special Secretary of the Board and the termination order dated 14.10.2005 (Annexure R14) is legal and valid.

Parties were given opportunity to lead evidence.

In support of his case, the workman appeared in the Witness Box and filed an affidavit supporting his case as set out in the claim statement.

On the other hand, respondent management has examined Sh. Shashi Paul Rana, Accounts Officer, BBMB, who filed his affidavit reiterating the case of the management.

Both the counsels carried me through the different letters issued by the Board and argued at length in favour of/against regular appointment to the dependants of the employees who died while serving with the Board. But this Court need not consider whether the workman was entitled for getting regular service with the Board or not. As per the Terms of Reference, it is only to determine whether termination of the workman *w.e.f.* 14.10.2005 is legal and justified.

The contents of the appointment letter dt. 20.3.2001 (Annexure-I) shows that offer was given to the workman for the post of Steno-Typist on contract basis for 89 days. Thereafter, he was continuously given extension and as per his case as set out in para 4 of the claim statement, he continuously remained in the service upto 14.10.2005 which is not controverted in the written statement. Thus, the

workman has continuously remained in service with the Board.

Now the question is whether the services of such a person who remained in continuous service for 4 years, though was given extensions for 89 days, can be 'retrenched'. The relevant portion of termination of letter dated 14.10.2005 (Annexure-R-14) are as follow:—

- "(1) You were appointed on purely temporary (89 days) basis as Steno Typist *vide* Chief Engineer/Generation letter No. CEG/PEN-32/5468-69 dated 20.6.2001.
- (2) In view of Special Secretary, BBMB, Chandigarh letter No. 8648-52/R&R/329/R-2/L-37/L dated 10.10.2005 your services are terminated *w.e.f.* 14.10.2005 (AN) under Section 25F of I.D. Act.
- (3) A bank draft of Rs. 34852-00 bearing No. 306113 dated 13.10.2005 on account of following dues as admissible under I.D. Act is enclosed.
 - (I) One month pay in lieu of one month notice pay Rs. 7037-00 and pay dues for the period from 26.8.2005 to 14.10.2005 Rs. 11576-00.
 - (II) Compensation equivalent of 15 days wages for each completed year of service Rs. 17239-00."

Thus, this letter was issued on the basis of letter dt. 10.10.2005 of Spl. Secy, BBMB. The relevant portion of the letter dt. 10.10.2005 (Annexure-R13) read as under:—

1. "Approval of Chairman, BBMB is hereby conveyed for giving extension in service to the dependents of the deceased PSEB employees (11 Nos. as per list enclosed) upto 15.10.2005, notwithstanding the dates on which their previous spells have expired.
2. The services of above employees shall be terminated by the respective Head of Deptt. by fulfilling the requirement of section 25F of ID Act. By giving each of them retrenchment compensation (which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months) and one month's wages in lieu of notice."

This letter shows that the Chairman of the Board has given approval for extension in service to the dependants of the deceased PSEB employees upto 15.10.2005 but in the 2nd para, the Spl. Secy, BBMB ordered to terminate the services of the employees as per section 25F of the Act. This letter does not show whether it was the Chairman who approved the termination of the services of the employees, as the approval given by the Chairman for termination of the services of the employees has not been brought on record. It is not clear whether the Spl. Secretary was competent to order the termination of employees. Thus

it cannot be said that 'retrenchment' has been ordered by the Competent Authority, and being so, the termination order dt. 14.10.2005 (Annexure R-14) on the basis of letter dated 10.10.2005 (Annexure R-13) cannot be termed as legal and valid.

Since it has been specifically ordered to fulfill the provisions of section 25 F of the Act meaning thereby, the employees were 'retrenched'. Retrenchment' is defined under section 2(oo) of the Act which read as under:—

"retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

or

- (bb) ²termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or [(c) termination of the service of a workman on the ground of continued ill-health;]

The perusal of the provisions shows that the services of the workman can be terminated for any reasons whatsoever meaning thereby that the employer has to give the reasons for retrenching the employees in every case covered vide the said clause.

Neither the Spl. Secy., nor the Financial Advisor & Chief Accountant Office Bhakra Beas Management Board, Nangal Township, given any reasons for retrenching the workman i.e. whether the workman was 'retrenched' on account of completion of work/Financial Constraints/Organization of Labour/or some regular employee joined etc.

Thus the service of the workman were terminated without any reasons and that too the order for the same was not passed by the Competent Authority; and as such, the 'retrenchment' is bad in law and termination of services of the workman on 14.10.05 is illegal and unjustified.

The next question is whether the workman is to be reinstated in service and, if not, be paid compensation.

The workman was initially appointed for 89 days. It is not the case of the respondent-management that his appointment was illegal and rather pleaded that he was appointed as per policy issued by the Board vide their letters dated 24.8.1990 and 21.3.1990 (Annexure R3 and

R4). The relevant portion of letter dated 24.8.1990 ((Annexure R3) read as follow:—

"The Chief Engineers, the FA&CAO and the Secretary are hereby authorized to give employment on compassionate grounds to a member each of family of the deceased State Government/Electricity Boards allocated employees (who dies while working in BBMB) for only one spell of 89 days on 'contract basis' against the existing regular vacant posts/vacancies".

The relevant portion of letter dated 21.3.1991 (Annexure-R4) read as follow:—

"In case regular employment to such dependants is not given by the State Govt/Elec. Boards within the first spell of 89 days, subsequent employment for 2nd and 3rd spells of 89 days each may also be given by the Chief Engineers, the FA&CAO and the Secretary".

The workman was to be given three spells of service on compassionate grounds but he was given extension in service from time to time and allowed to complete four years of service. The workman specifically pleaded in the statement of claim that he joined the service on 5.7.2001 and continuously remained in service for four years. This fact is not controverted by the management in written reply.

When the workman continuously worked for one year, the protection of Section 25F of the Act became available to him, and giving extensions, as per the policy laid down *vide* above said letter is only a surplusage. Similarly by mentioning the words on "Contract Basis" in appointment letter, also lose its importance. It seems that the management was aware of this and on that account, the services of the workman were ordered to be 'retrenched', and retrenchment is illegal as discussed earlier.

Since the workman was appointed legally as discussed, and his retrenchment is illegal, he is to be reinstated in service.

It is not the case of the workman that he remained without work after the termination of his services nor any cogent evidence has been led to that effect in this respect but considering the totality of the facts, he is to be awarded 25% of the back wages.

In result, the reference is answered, holding that the action of the management in terminating the services of the workman w.e.f. 14.10.2005 is 'illegal and unjust' and workman is to be reinstated in service on the same terms and conditions on which he worked. The management shall reinstate him in service within one month, and pay arrears of back wages within two months of the publication of the award. The management is at liberty to recover the amount so paid from the officers who are responsible for passing an illegal order, as per law.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

कांआ 1847.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1323/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 को प्राप्त हुआ था।

[सं० एल-23012/2/2007-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 1323/2007 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of BBMB, Bhakra Beas Management Board, and their workmen, received by the Central Government on 10/09/2015.

[No. L-23012/2/2007-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Shri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 1323/2007

Registered on 16.7.2007

Ms. Archana Rishi, D/o Late Sh. Chander Mohan Rishi, H.No. 30W, Dobetta Colony, Nangal Township, Ropar.

...Petitioner

Versus

1. The Chief Engineer, (Generation), BBMB, Power Wing, Nangal Township.
2. Sr. Accounts Officer, Bhakra Beas Management Board, Nangal Township.

...Respondent

APPEARANCES

For the workman Sh. Manjit Dhiman, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 30.7.2015

Central Government *vide* Notification No. L-23012/2/2007-IR(CM-II) Dated 5.7.2007, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section

(2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of BBMB in terminating the services of Ms. Archana Rishi w.e.f. 14.10.2005 is legal and justified? If not, to what relief is she entitled?"

The facts, in brief, are that Sh. Chander Mohan Rishi, father of the workman was a permanent employee of the Punjab State Electricity Board and was working as a Senior Assistant. He was allocated to Bhakra Beas Management Board. Sh. Chander Mohan Rishi died on 17.5.2002 while in service of the Board. The workman applied for appointment on compassionate grounds with the Board. She was appointed as Upper Division Clerk by the Financial Advisor and Chief Accounts Officer, BBMB, Nangal Township *vide* letter dated 18.9.2002 (Annexure 1), in the pay scale of Rs. 4600-7250/-.

The workman joined the services on 18.9.2002 on regular vacant post for 89 days and she continued till 14.10.2005. Her services were terminated by FA & CAO *vide* letter dated 14.10.2005 (Annexure 14), on the basis of letter dated 10.10.2005 (Annexure- 13) issued by the Special Secretary of the Board.

It is pleaded that the termination of her services is illegal as the services of the workmen similarly placed were regularized and no reason has been given for terminating her services. There is also violation of Section 25G and Section 25N of the Act. It was pleaded that she be reinstated in service with all the benefits.

Respondent management filed written statement pleading that the workman was not appointed on compassionate grounds but was given appointment for 89 days on temporary basis as per guidelines issued by the Board, *vide* letter dated 24.8.1990 and 21.3.1991 (Annexure R3 and R4). It is further pleaded that the conditions for giving employment on compassionate grounds to family members of the Board's own recruited employees, and of other department/Electricity Boards is a different and the applications of persons belonging to other department/Electricity Departments are sent to the parent department/electricity board for giving employment on compassionate grounds. The case of the workman was taken up with the Punjab State Electricity Board *vide* different letters and in the meantime she was given extension in service. Now the Electricity Board has informed that a sum of Rs. 3 lac is being given as solatium in lieu compassionate appointment *vide* its policy dated 23.11.2004.

Since the workman was employed on contract basis for 89 days, her services were ordered to be terminated along with others in view of the letter dated 10.10.2005 (Annexure R13) issued by the Special Secretary of the Board and the termination order dated 14.10.2005 (Annexure R14 (is legal

and valid.

Parties were given opportunities to lead evidence.

In support of her case, the workman, Mrs. Archana Rishi appeared in the witness box and filed here affidavit reiterating here case as set out in the claim petition.

On the other hand, respondent management has examined Sh. Shashi Paul Rana, Accounts Officer, BBMB, who filed his affidavit reiterating the case of the management.

Both the counsels carried me through the different letters issued by the Board and advanced lengthy arguments in favour/against regular appointment of the dependents of the employees who died while in service with the Board. But this Court is not to consider whether and workman was entitled for getting regular service with the Board or not. As per term of reference, it is only to determine whether termination of the workman w.e.f. 14.10.2005 is legal and justified.

The contents of the appointment letter dated 18.9.2002 (Annexure R2) shows that the offer was given to the workman for the post of Upper Division Clerk on contract basis for 89 days. Thereafter, she was continuously given extension and as per the averments in Para 4 of the claim statement, she continuously worked upto 14.10.2005 which is not controverted in the written statement. Thus, the workman continuously remained in service with the Board from 18.9.2002 to 14.10.2005.

There is nothing on the file that there was any break in service and the letters/documents placed on the file shows that extension was given prior to the expiry of the previous periods. Thus the workman continuously remained in service from 18.9.2002 to 14.10.2005

Now the question is whether the service of such a person who continued in service for more than 3 years, can be retrenched. The relevant portion for the termination of letter dated 14.10.2005 (Annexure R14) read as follow:—

- "(1) You were appointed on purely temporary (89 days) basis as UDC vide this office letter No. 3556 dated 18.9.2002.
- (2) In view of Special Secretary, BBMB, Chandigarh letter No. 8648-52/R&R/329/Rs-2/L-37/L dated 10.10.2005 your services are terminated w.e.f. 14.10.2005 (AN) under Section 25 of I.D. Act.
- (3) A bank draft of Rs. 41309-00 bearing No. 306111 dated 13.10.2005 on account of following dues as admissible under I.D. Act is enclosed.
- (1) One month pay in lieu of one month notice pay Rs. 9170-00 and pay dues for the period from 22.8.2005 to 14.10.2005 Rs. 162680-00
- (II) Compensation equivalent of 15 days wages for

each completed year of service Rs. 15871-00."

Thus this letter was issued on the basis of letter dated 10.10.2005 (Annexure R13) of Sepecial Secretary to the Board and its relevant portion read as follow:—

1. "Approval of Chairman, BBMB is hereby conveyed for giving extension in service to the dependents of the deceased PSEB employees (11 Nos. as per list enclosed) upto 15.10.2005, notwithstanding the dated on which their previous spells have expired.
- 2 The services of above employees shall be terminated by the respective Head of Deptt. by fulfilling the requirement of section 25F of ID Act. By giving each of them retrenchment compensation (which shall equivalent to 15 days average pay for every completed year of continous service or any part thereof in excess of six months) and one months wages in lieu of notice."

The perusal of the letter dated 13.10.2005 shows that the Chairman of the Board has given approval for extension in service to the dependants of the deceased PSEB employees upto 15.10.2005 but in the 2nd para, the Spl. Secy, BBMB ordered to terminate the services of the employees as per Section 25F of the Act. This letter does not show whether it was the Chairman who approved the termination of the services of the employees. The approval given by the Chairman for termination of the services of the employees has not been brought on record. It is not clear whether the Spl. Secretary was competent to order the termination of the employees. Thus it cannot be said that 'retrenchment' has been ordered by the Competent Authority, and being so, the termination order dt. 13.10.2005 (Annexure R-15) on the basis of letter dated 10.10.2005 (Annexure R-13) cannot be termed as legal and valid.

It has been specifically ordered *vide* letter dated 13.10.2005 to fulfill the requirement of section 25F of the Act meaning thereby, that the employee was 'retrenched'.

'Retrenchment' is defined under section 2(oo) of the Act which read as under :—

"retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) ²termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the

workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or (c) termination of the the service of a workman on the ground of continued ill-health;”

The persual of the provisions shows that the services of the workman can be terminated for any reasons whatsoever meaning thereby that the employer has to give the reasons for retrenching the employees in every case covered under the said clause.

Neither the Spl. Secy., nor the FA&CAO, Nangal Township, had given any reasons for retrenching the workman *i.e.* whether the workman was retrenched on account of completion of works/financial constraints/organization of labour/some regular appointee joined, etc.

Thus the services of the workman were terminated without any reasons and that too the order for the same was not passed by the Competent Authority; and as such, the 'retrenchment' is bad in law and termination of services of the workman on 14.10.05 is illegal and unjustified.

The next question is whether the workman is to be reinstated in service and, if not, be paid compensation.

The workman was initially appointed for 89 days. It is not the case of the respondent-management that his appointment was illegal and rather pleaded that she was appointed as per policy issued by the Board *vide* their letters dated 24.8.1990 and 21.3.1990 (Annexure R3 and R4). The relevant portion of letter dated 24.8.1990 (Annexure R3) read as follow:—

"The Chief Engineers, the FA&CAO and the Secretary are hereby authorized to give employment on compassionate grounds to a member each of family of the deceased State Government/Electricity Boards allocated employees (who dies while working in BBMB) for only one spell of 89 days on 'contract basis' against the existing regular vacant posts/vacancies".

The relevant portion of letter dated 21.3.1991 (Annexure-R4) read as follow:—

"In case regular employment to such dependants is not given by the State Govts/Elec. Boards within the first spell of 89 days, subsequent employment for 2nd and 3rd Spell of 89 days each may also be given by the Chief Engineers, the FA&CAO and the Secretary".

The workman was to be given three spells of service on compassionate grounds but she was given extension in service from time to time and allowed to complete more than three years of service. The workman specifically pleaded in the statement of claim that she joined the service on 18.9.2002 and continuously remained in service for three years. This fact is not controverted by the management in

written reply.

When the workman continuously worked for one year, the protection of section 25F of the Act became available to her, and giving extensions, as per the policy laid down *vide* above said letter is only a surplusage. Similarly by mentioning the words on 'Contract Basis' in appointment letter, also lose its importance. It seems that the management was aware of this and on that account, the services of the workman were ordered to be 'retrenched', and retrenchment is illegal as discussed earlier.

Since the workman was appointed legally as discussed, and his retrenchment is illegal, she is to be reinstated in service.

It is not the case of the workman that she remained without work after the termination of her services nor any cogent evidence has been led to that effect in this respect but considering the totality of the facts, she is to be awarded 25% of the back wages.

In result, the reference is answered, holding that the action of the management in terminating the services of the workman *w.e.f.* 14.01.2005 is 'illegal and unjust' and workman is to be reinstated in service on the same terms and conditions on which she worked. The management shall reinstate her in service within one month, and pay arrears of back wages within two months of the publication of the award. The management is at liberty to recover the amount so paid from the officers who are responsible for passing an illegal order, as per law.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2015

का०आ० 1848.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 27/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/09/2015 प्राप्त हुआ था।

[सं. एल-22012/258/2003-आई.आर. (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 10th September, 2015

S.O. 1848.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Kalidaspur Project, M/S Eastern Coalfields Limited and their workmen, received by the Central Government on 15.09.2015.

[No. L-22012/258/2003-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT: Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 27 OF 2004

PARTIES: The management of Kalidaspur Project of
M/s. ECL

Vs.

Sri Bihari Bhuian

REPRESENTATIVES:For the management : Shri P.K. Goswami, Ltd. Adv.
(ECL)For the union (Workman) : Shri Rakesh Kumar,
President (KMC)INDUSTRY: COAL STATE: WEST BENGAL
Dated: 14.08.2015**AWARD**

In exercise of power conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/258/2003-IR(CM-II) dated 18.05.2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kalidaspur Project of M/S. ECL in dismissing Shri Bihari Bhuian, Trammer from service w.e.f. 17/27.01.2000 is legal and justified? If not, to what relief the workman is entitled to?"

Having received the Order No. L-22012/258/2003-IR (CM-II) dated 18.05.2004 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 27 of 2004 was registered on 21.06.2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Shri Rakesh Kumar, President of the union (Koyla Mazdoor Congress) appears on behalf of the workman and Sri P.K. Goswami, Learned Advocate appears on behalf of the management (ECL).

Sri Rakesh Kumar submits that the case may be closed and a "No Dispute Award may" be passed as the workman

has already joined in service through amicable settlement. Since the workman has already joined in service, no dispute exists between the parties. As such the case is closed and accordingly a 'No. Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send to copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का०आ० 1849.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 146/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 प्राप्त हुआ था।

[सं एल- 12012/551/98-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 146/99) of the Cent. Govt. Indus. Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11/09/2015.

[No. L-12012/551/98-IR (B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/146/99
Shri Govindsingh Goyal,
S/o Shri Khemaji Goyal,
Nr. Girls High School,
Nehru Marg,
Jhabua (MP)

...Workman

Versus

Asstt. General Manager,
State Bank of India,
Region-V, Zonal Office,
Hamidia Road,
Bhopal (MP)

...Management

AWARD

Passed on the 10th day of August, 2015

As per letter dated 30-3-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/551/98-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India in terminating the services of Shri Govind Singh Goyal *w.e.f.* 8-7-97 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/2 to 2/3. Case of Ist party workman is that he was working with 2nd party from 1983 to 1998. For some period, he was working as canteen boy. He was required to work for 8-10 hours. In 1989, he was paid Rs. 50/- per day. His wages were increased to Rs. 20,30,34,40 per day. From 5-12-95, he was appointed as temporary messenger. The certificate of working was issued for the period 17-4-96 to 13-4-99. From 28-2-98, his services were discontinued. During the period 1982 to 1989, he was paid Rs. 250/- per month for his work as messenger. From 1990 to 1996, he was paid Rs. 500 per month. His services were terminated. He raised dispute before RLC, Bhopal.

3. 2nd party filed written Statement at Page 8/1 to 8/6 opposing claim of the workman. 2nd party contends that workman was employed on daily wages as messenger on contract basis at Jhabua branch. In 1983, he worked for 3 days, in 1984-for 94 days and in 1986-4days-total 101 days. From April 96 to Dec.-96-216 days, during Jan-97 to Dec-97-227 days and during Jan to Feb 98-54 days. Workman was appointed on daily wages till regular appointment of messenger. The engagement of workman was on contract basis as per exigencies. He was not required to report to work on next day. Workman had not completed 240 days continuous service during any calendar year. His discontinuation is covered under Section 2(oo)(bb) of ID Act. Workman is not entitled to retrenchment compensation under Section 25-F of ID Act. as he was never in employment of the Bank, his services were contractual. He has not worked for 240 days. He is not covered as workman under Section 25-B of ID Act. Bank has fixed rules for selection of candidates. Workman was selected following recruitment process. As per provisions of various agreements dated 17-11-87, 16-7-88, 27-20-88, 91-91, 30-6-96. Workman was called for interview but he was not found fit for considering his seniority by the Committee. It is reiterated that discontinuation of workman is covered under Section 2(oo)(bb) of ID Act. Workman not completed 240 days continuous service is not entitled to retrenchment compensation.

4. Workman filed rejoinder at page 9/1 to 9/4 reiterating his contentions in statement of claim. Workman has admitted working days shown in Para-1 of the Written Statement.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India in terminating the services of Shri Govind Singh Goyal <i>w.e.f.</i> 8-7-97 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of his service for violation of Section 25-F of ID Act. 2nd party contends that workman was engaged on daily wages. He not completed 240 days continuous service during any of the year. Workman filed affidavit of his evidence supporting his contentions in statement of claim. That workman worked in 1983, he worked for 3 days, in 1984-for 94 days and in 1986-4 days-total 101 days. He was working as canteen boy. During 17-4-96 to 30-4-96, he was appointed as messenger. In January-February 1998, he worked for 54 days. His services were terminated without notice. Junior employees were continued. He was called for interview on 22-9-89. One Gopal appointed in 1984 is continued in service. In his cross-examination workman says he was working in the branch from 1983. He did not recollect the date. He submitted application, its copy is not produced. Appointment letter was not issued to him in 1989. He denies that he failed in the interview therefore he was not given appointment. Gopal is still working with the Bank. Even after his interview in 1989, he was working in the Bank till February 1998. He was paid daily wages.

7. Management's witness Rita Shukla filed affidavit of her evidence narrating working days of workman in Para-2,3 of affidavit. Workman worked for 216 days during April to December 98,227 days during January 97 to December 97. Management's witness in her cross-examination says her affidavit is filed as per record. She claims ignorance about documents produced by workman. The copy of settlement produced by workman is admitted and marked Exhibit W-1. That she had not verified the certificate produced by workman. She claims ignorance about payment of bonus to workman. She claims ignorance about payment of retrenchment compensation or issue notice of termination to workman. Management's witness claims ignorance whether payment was paid to workman from petty cash and the register of paid cash was maintained.

Management's witness admitted letter issued by Branch Manager it is market Exhibit W-1. In Exhibit W-2, working days are shown from April 96 to February 1998. If working days of workman are considered from February 98 to March 97 12 preceding months of termination of workman, the working days comes 278. Thus workman was continuously working more than 240 days preceding 12 months of his termination. His services are terminated without notice, no retrenchment compensation is paid to the workman therefore termination of workman is illegal for violation of Section 25-F of ID Act.

8. Claim of workman w.r.t. regularization in 1989 is not covered in terms of reference and therefore claim of workman on that ground cannot be considered. That workman is illegal for violation of section 5-F of ID Act. Therefore I record Point No. 1 in Negative.

9. Point No. 2-Workman in his cross-examination admitted he was working on daily wages. In Exhibit W-2, his working days during 1983 to 1985 were 101 days. Thereafter workman was again engaged in April 96 to Feb-98 for about 2 years. As workman was engaged on daily wages, reinstated with back wages would not be appropriate. In my considered view, compensation Rs. 60,000/- would be reasonable. Accordingly I record my finding in Point No. 2.

10. In the result, award is passed as under:—

- (1) The action of the management of Asstt. General Manager, State Bank of India in terminating the services of Shri Govind Singh Goyal *w.e.f.* 8-7-97 is not legal.
- (2) 2nd party is directed to pay compensation Rs. 60,000/- to the workman. Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

कांआ 1850.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 की अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट श्रम न्यायालय, औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ सं० (181/00) प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2015 को प्राप्त हुआ था।

[सं० एल-12012/219/2000-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 181/00) of the Central Government Industrial-Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute

between the management of State Bank of India and their workmen, received by the Central Government on 11-09-2015.

[No. L-12012/219/2000-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/181/00

General Secretary,

Daily Wages Bank Employees Association,

Hardev Niwas, 9,

Sanwer Road, Ujjain

...Workman/Union

Versus

General Manager (Operations),

State Bank of India,

Head Office, 5,

Yeshwant Niwas Road,

....Management

AWARD

Passed on this 10th day of August, 2015

As per letter dated 16-10-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/219/2000/IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of Indore in terminating the services of Shri Rajkumar Bansawal *w.e.f.* 7-7-99 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he was engaged on daily wages as sweeper from 16-3-96 in Freeganj branch Ujjain of 2nd party. He was working with honesty under different branch managers. He was paid six day wages in a week by voucher. He completed more than 240 days continuous service. On his claim for bonus, his services were terminated without notice on 7-7-99. He raised dispute before ALC. It is reiterated that workman completed more than 240 days continuous service. His services are terminated without notice, retrenchment compensation is not paid. His termination is in violation of Selection 25-F of ID Act. Principles of last come 1st go was not followed. His termination is in violation of section 25 of I.D Act. After termination of his service, other persons were engaged on daily wages are still continued. Workman was not re-employed. His termination is in violation of section 25-H of ID Act. On such ground, workman prays for reinstatement with back wages.

3. 2nd party filed Written Statement at page 6/1 to 6/12 opposing claim of the workman. Preliminary objection is raised that 1st party workman was not appointed by 2nd party. He has not completed 240 days continuous service. 1st party is not covered as workman under Section 2(s) of ID Act. The reference is not tenable. Employer employee relationship is denied. 2nd party submits that it is registered under State Bank of India Act, 1959. The services of its employees recovered by the rules. If candidates are selected after calling for interview, workman was not appointed after following recruitment process. Engagement of workman was on daily wages as per exigencies. His discontinuation is covered under Section 2(o)(bb) of ID Act and does not amount to retrenchment. 2nd party in additional pleading submits that daily wages casual workers have no right for absorption/regularization in service quoting ratio held in various cases. 2nd party submits that reference be answered against workman.

4. Workman filed rejoinder at Page 7/1 to 7/2 reiterating contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| “(i) Whether the action of the management of State Bank of Indore in terminating the services of Shri Rajkumar Bansawal w.e.f. 7-7-99 is justified?” | In Affirmative |
| “(ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. Workman has challenged termination of his service for violation of Section 25-F of ID Act. He filed affidavit of his evidence. However he failed to appear for cross-examination therefore his evidence cannot be considered.

7. Management filed affidavit of witness Subhash Aheer supporting contentions of 2nd party that workman was engaged for cleaning, sweeping work one hour morning, one hour evening as per exigencies. Workman was paid wages for the working days as agreed. Workman was not continuously working, his name was not sponsored through Employment Exchange. Workman was not appointed following recruitment process. In his cross-examination management's witness says he was working in the branch during relevant period. He had seen statement of claim filed by workman but did not see the documents produced. Any document are not produced by him in support of his affidavit. Looking to the correspondence in file, his affidavit was prepared. Those documents are not produced. How workman was paid wages was not written

in the file. For how many days wages was paid was also not written in the file. Appointment letter was not given to the workman. Management's witness did not admit copies of vouchers shown to him. Witness of management admits retrenchment notice was not issued to workman, retrenchment compensation was not paid to him. application for production of document was submitted by workman. However any order on the application was not passed. It appears that the application was not pressed. Workman has failed to establish he was continuously working more than 240 days preceding 12 months of his termination.

8. On the point, counsel for 2nd party Shri Praveen Chaturvedi relies on ratio held on ratio held in

Case of Bharat Sanchar Nigam Ltd and Mansingh reported in 2012 (132) FLR 500. Their Lordship of the apex court held daily wages does not hold any post and not permanent employee. The order passed by Labour Court was set aside and compensation Rs. 2 lakh was allowed.

In present case, termination of workman in violation of Section 25-F of ID Act is not established. Therefore action of 2nd party cannot be said illegal. Therefore I record my finding in Point No. 1 in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the management of State Bank of Indore in terminating the services of Shri Rajkumar Bansawal w.e.f. 7-7-99 is proper.
- (2) 1st party workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का०आ० 1851.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या (178/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं. एल-12012/148/2003-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 178/03) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11/09/2015.

[No.L-12012/148/2003-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/178/03

General Secretary,
Nationalised Bank Karmchari Sangathan,
Hardev Niwas, 9, Sanwer Road,
Ujjain

...Workman/Union

*Versus*General Manager (Operations),
State Bank of India,
Head Office, 5, Yeshwant Niwas Road,
Indore

...Management

AWARD

Passed on this 17th day of August, 2015

1. As per letter dated 28-11-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/148/2003-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Dy. General Manager, State Bank of Indore in not granting promotion and non-payment of duty allowance after taking the higher duties in respect of Shri Narendra Shah is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/5. The case of Ist party is that he was appointed as peon in Rajghar (Dhar) branch Indore on 29-8-81. He was working with devotion. In 1983, he was transferred from Rajghar (Dhar) branch to Jhabua branch. In 1983, he passed HSc and requested for recording his higher qualification to the management. From 1983 though he was posted as peon, work of clerk was extracted from him. On 12-7-84, he was transferred from Jhabua branch to Rajgarh branch. On 13-7-84, he joined his duty at Rajgarh. During 1984 to 1987, he was doing officiating work of clerk. In 1989, he was promoted as Daftary in Rajgarh branch. Even after his promotion as Daftary work of officiating clerk was extracted from him. In 1994, Branch Manager Mr. Mahajan called him in his cabin and appreciating his experience said that he should work as Head cashier and deposit cash security of Rs. 1000 opening account of Rs. 100/-. Workman deposited said amount of Security on 16-11-94. Amount of security is deposited. Workman is paid interest on it.

3. Ist party workman further submits that he had taken over charge of Head cashier and was doing the work of Head cashier like cash remittance. He was paid TA, DA of

post of Head cashier. He was allowed benefits of post of clerk/LFC. Workman submits that since 1983 to 1997, work of officiating clerk, Head cashier was extracted from him. He was not paid allowance of officiating clerk despite admitting the working before ALC. Workman further submits that on 31-5-01, false chargesheet was issued to him. He was suspended. Workman is claiming allowance for officiating clerk as per Para-9 of the settlement dated 9-10-1966. As per Para 6.56 of Desai Award, the workman is claiming officiating allowance from 1983 to 1997.

4. 2nd party submitted Written Statement at Page 6/1 to 6/2 opposing claim of the workman. 2nd party submits that workman was initially appointed in the post of peon. While working at Rajgarh, workman was suspended on 1-6-01 for committing acts of omission. Workman was compulsorily retired on 14-11-03. At present workman is not employee of the Bank. Workman is claiming officiating allowance while working in Jhabua branch in 1982 to 1983, in Rajgarh branch from 1984 to 1987. 2nd party denied claim of workman contending that workman was never directed to officiate in the post of clerk. As per para 9.10 of Bipartite settlement, if Bank requires employee to officiate in post of higher cadre, order in writing is required. Workman was not directed to work as officiating clerk. Verbatim of para 9.11 are reproduced in Para 5 of the Written Statement. 2nd party further submits that workman had committed certain misconduct. After enquiry, punishment of withholding 4 increments was imposed against him as per letter dated 27-2-99. On 14-11-03, workman was compulsorily retired. Workman had not appeared in exam for promotion as per promotion policy of the Bank. Claim of workman cannot be allowed.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them from the reasons as below:—

“(i) Whether the action of the management of Dy. General Manager, State Bank of Indore in not granting promotion and non-payment of duty allowance after taking the higher duties in respect of Shri Narendra Shah is justified?

(ii) If not, what relief, the workman is entitled to?”

Workman is not entitled to any relief.

REASONS

6. Claim of workman is denial of promotion and non-payment of officiating allowance. Workman filed affidavit of his evidence supporting his contentions in statement of claim that work of officiating clerk was extracted from him. He was also asked to do work of post of Head cashier.

However he was not granted promotion neither he was paid officiating allowance for the post of clerk. Workman remained absent. Representative of workman Shri R. Nagwanshi given in writing that he know that workman would not appear for his cross-examination therefore his evidence cannot be considered.

7. Management filed affidavit of witness Shri A.N. Tank supporting contentions of management. In his cross-examination, management's witness says that he was not posted in Rajgarh branch during 1987 to 1997. He has not seen record about service of workman. Workman was engaged as peon. Thereafter appointed as Daftary. Management's witness claims ignorance about working of Ist party as clerk. He had not seen order directing workman to work as clerk. He denied copy of statement of Bank account. The zerox copy of receipt is denied. Management's witness denied that workman was given charge of Head cashier. Copy of TA bill shown to him is denied. He claims ignorance about Account No. C-188 in name of workman. Workman has failed to appear in cross-examination. His evidence cannot be considered. From evidence in cross-examination of management's witness, nothing is extracted in support of claim of workman. Shri R. Nagwanshi did not point out any rule supporting claim of promotion of workman. The claim of workman is not established. Therefore I record my finding in Point No. 1 in Affirmative.

8. In the result, award is passed as under:—

- (1) The action of the management of Dy. General Manager, State Bank of Indore in not granting promotion and non-payment of duty allowance after taking the higher duties in respect of Shri Narendra Shah is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का.आ. 1852.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या (209/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं. एल-41012/4/99-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.209/99) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as

shown in the Annexure, in the industrial dispute between the management of South Eastern Railway and their workmen, received by the Central Government on 11/09/2015.

[No. L-41012/4/99-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/209/99

Smt. Premeela Bai, LR
Late Shri Dudhia,
S/o Shri Angad,
Q.No. 3, Block No. 7,
SE.Rly Colony,
Rasmada Distt. Durg

...Workman

Versus

Divisional Engineer (East),
South Eastern Railway,
Maharashtra, Nagpur,

...Management

AWARD

Passed on this 20th day of August, 2015

1. As per letter dated 14-5-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/4/99/IR(B-1). The dispute under reference relates to:

"Whether the action of the management of S.E. Railway, Nagpur Division in terminating the service of Shri Dudhia, S/o Shri Angad, Ex-Gate Keeper w.e.f. 31-3-98 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman died during pendency. His LR's are brought on record. Statement of claim is filed by workman at Page 2/1 to 2/4. Case of workman is that he was permanent employee of SECL posted under Sr. Section Engineer was served with chargesheet dated 24-12-97 under Rule 3 (c) of Railway Service Conduct Rule 1966. The charge against workman was while working as Gate Keeper under Sr. SE(P-Way), Rajnandgaon is alleged to have committed gross dereliction of duty. On 19-11-97, at Manned LC Gate No. 120, he failed to close the side booms even though he exchanged P.E. resulted Train No. 8543 up Samta Express on main line hit a load vehicle. The workman submitted his explanation denying the charges against him. Workman was not supplied copies of relevant documents for his defence. Enquiry Officer was appointed without considering his explanation. The evidence of management's witnesses was adduced. The delinquent workman was not

permitted to cross-examine the witnesses after completion of Enquiry Proceedings, Enquiry Officer submitted his report to disciplinary. Authority holding him guilty of charges. Disciplinary Authority accepting report and findings of Enquiry Officer, imposed punishment of dismissal against workman. Order of his dismissal is arbitrary. The enquiry conducted against him is vitiated. The procedure under Railway Servants Discipline Appeal rules 1964 was not followed. The punishment is commensurate with the charges alleged or proved against him. Workman was not provided details of the charges against him. Annexure I to IV were not supplied. Material documents were not supplied to him. List of witness was not furnished. Workman was not given fair opportunity for his defence. It is submitted that workman has not committed any misconduct. The order of his dismissal is illegal as it is not based on any evidence. The dismissal of workman is by way of victimisation and unfair labour practice. On such ground, workman prayed for setting aside order of his dismissal dated 30-3-98 and his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 9/1 to 9/5 opposing claim of the workman. 2nd party submits that ALC as well this Tribunal has no jurisdiction with the matter. The reference pertains to removal of permanent railway employee falls within jurisdiction of CAT as per Section 19 of Act of 1985. Workman was working as Gate keeper under Asstt. Engineer, SE Railway at Dongergarh. Chargesheet was issued to him for major penalty on 19-11-97. Charges alleged against workman were proved before enquiry Officer. The report of Enquiry was submitted to Disciplinary Authority. The documents were served on workman on 21-2-98 were duly acknowledge on 25-2-98. Workman failed to submit any representation. The disciplinary authority issued notice dated 30-3-98 for removal. Workman acknowledged it on 31-3-98. Workman was removed from service on 31-3-98. Appeal preferred by workman was dismissed. Workman could have approached CAT in view of Section 19 of Act of 1985.

4. 2nd party reiterates that workman was supplied relevant documents. It is denied that workman was not permitted to cross examine management's witnesses. As per report of enquiry Officer, charges against workman were proved and punishment of removal from service was imposed on 30-3-98. The enquiry was conducted as per rules of 1968. Considering gravity of charges, punishment has been imposed is legal.

5. Workman field rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the

reasons as below:-

- | | |
|---|--------------------|
| (I) Whether enquiry conducted against workman is proper and legal? | In Negative |
| (ii) Whether the charges alleged against workman are proved from evidence in enquiry Proceedings? | In Negative |
| (iii) Whether the punishment of removal from service imposed against workman is proper and legal? | In Negative |
| (iv) If not, what relief the workman is entitled to?" | As per final order |

REASONS

7. Workman has pleaded that enquiry was not properly conducted against him. Documents were not supplied to him. He was not allowed to cross-examine witnesses of management. Procedure under rules of 1968 was not followed. Workman died during pendency of reference, his widow Premsheela Bai filed affidavit of her evidence stating that on 19-11-97, her husband had closed the gate. The tempo driver under intoxication entered in argument that her husband and the tempo driver opened Railway Gate. Driver and passengers in the tempo ran away when accident had occurred. Similar affidavit of Dilip Ingle is filed. Both the witnesses are not cross-examined.

8. Management filed affidavit of witness Shri Prasad Naik. The management's witness says that enquiry was conducting giving reasonable opportunity for his defence to the workman. Punishment of removal was imposed. The witness of the management also not appeared for cross-examination. The record of enquiry is not produced. For non production of enquiry Record by 2nd party, I hold that the enquiry conducted against workman was not proper and legal.

9. Point No. 2&3-As record of enquiry is not produced by 2nd party, in Written Statement, no permission is requested for proving misconduct alleged against workman. That the charges alleged against workman are not proved as record of enquiry is not produced. When charges against workman are not proved, the punishment of removal from service of workman cannot be said legal. For above reasons, I record my finding in Point No. 2,3 in Negative.

10. Point No. 4- In view of my finding in Point No. 2, charges against workman are not proved, the order of removal from service of workman cannot be said legal. Question remains for consideration is whether workman is entitled for reinstatement with backwages. Workman died during pendency of reference. As per copy of death certificate, workman died on 4-2-2000 therefore

reinstatement of workman is not possible. As charges are not proved, removal of workman from service is illegal. However workman is dead, reinstatement cannot be allowed. Workman could be allowed monetary benefits or backwages from date of his termination till his date of death of superannuation. Accordingly I record my finding in Point No. 4.

11. In the result, award is passed as under:-

- (1) The action of the management of S.E. Railway, Nagpur Division in terminating the service of Shri Dudhia, S/o Shri Angad, Ex-Gate Keeper w.e.f. 31-3-98 is not proper.
- (2) 2nd party is directed to pay wages to the LR of workman from the date of his removal i.e. 31-3-98 till date of death of workman or age of attaining superannuation.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

कांआ 1853.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (5/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 प्राप्त हुआ था।

[सं एल-12011/46/2008-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.5/09) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of **State Bank of India** and their workmen, received by the Central Government on 11/09/2015.

[No. L-12011/46/2008-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/5/09

Regional Secretary,
State Bank of India Staff Congress (INTUC)
34, Premnagar, Madan Mahal, : Workman/Union
Jabalpur

Versus

Dy. General Manager
State Bank of India,
Zonal Office, Vijay Nagar,
Jabalpur.

... Management

AWARD

Passed on this 17th day of August 2015

1. As per letter dated 20-1-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12011/46/2008/IR(B-I). The dispute under reference relates to:

"Whether the action of the Deputy General Manager, State Bank of India, Zonal Office, Vijay Nagar, Jabalpur (MP) in not considering interest on delay payment of arrears to Shri S.A. Henry, Sr. Assistant, SBI, SBI Jawaharganj Branch, Jabalpur is fair, legal and justified? If not, to what relief is the workman concerned entitled?"

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 2/1 to 2/2 through Divisional Secretary, SBI Staff Congress, Jabalpur. Case of Ist party is that he was working as Head cashier in despatch section in SBI, Jabalpur from January 90. 4 clerks were provided in despatch section under his supervisor. Each clerk was allotted different kind of works. On 28-10-91, workman was advised by Asstt. General Manager that some work in despatch section was delayed and Bank had suffered loss of interest. Workman asked its details but no reply was given. Chargesheet was issued to workman on 4-4-98 after 7 years. Enquiry was conducted in 2005. Workman was exonerated of charges against him. He was granted promotion with retrospective effect from 1-4-99 as Sr. Assistant and 1-4-01 as special Assistant. Workman was paid arrears in May 07. Workman claims interest at 24-25% per annum on delayed payment calculated to Rs. 1,43,561/-. Workman also claims he is entitled for voluntary retirement scheme benefit. Said claim is beyond the terms of reference.

3. Pleadings in statement of claim are vague w.r.t. the amount paid to workman in May 2007. On what ground, said payment was made is also not disclosed in statement of claim.

4. 2nd party filed Written Statement opposing claim of the workman. 2nd party submits that workman has not submitted full facts in his statement of claim. Workman was working as Assistant at Ranjhi branch of SBI at Jabalpur. On 4-4-98, chargesheet was issued to workman. He was negligent in the bank causing loss to the Bank. Workman challenged Writ Petition No. 4193/1998 on ground of delay. Enquiry was stayed. Writ Petition was dismissed on 13-1-03. Workman challenged said order filing LPA 92/03 before Hon'ble High Court, order of single bench

was stayed. LP was dismissed on 1-9-05. Thereafter enquiry against workman was held. Workman was exonerated on 30-11-05. Ist party was issued chargesheet on 29-11-97, the charges against workman were proved in the Enquiry Proceedings. Punishment of withholding two increments was imposed against workman on 30-3-01. Workman filed appeal against the order of punishment. The appeal was rejected. 3rd chargesheet was issued on 11-10-99 after conducting DE, punishment of reducing pay by two stage was imposed on 27-3-02. Workman was promoted as Sr. Assistant from 1-4-97 as per order dated 1-6-06. He was also promoted as special Assitant from 1-4-01 vide order dated 3-8-06. However workman was working in different branches at Ranjhi, OFK. Therefore arrears of salary were paid on 26-5-07, 30-3-07. The Competent authority had allowed payment of arrears showing leniency. The payment was sanctioned on 1-6-06. The delay in payment was caused due to workman was working in different branches. Claim of workman for interest 24-25% is not legal. 2nd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the Deputy General Manager, State Bank of India, Zonal Office, Vijay Nagar, Jabalpur (MP) in not considering interest on delay payment of arrears to Shri S.A. Henry, Sr. Assistant, SBI, SBI Jawaharganj Branch, Jabalpur is fair, legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is claiming interest at 24-25% on the ground of arrears and statement of claim is not disclosing what kind of arrears were paid to him. at the time of argument, workman tried to explain that arrears paid to him were of special allowance whereas Written Statement filed by 2nd party shows that arrears of salary was sanctioned to workman on 1-6-06. However as workman was working in different branches, delay was caused in payment of amount of arrears of salary. As per Written Statement, amount was paid by Jawahar branch on 14-5-07 by Ranjhi branch and OFK branch on 26-5-07, 30-3-07.

7. Workman filed affidavit of his evidence dated 25-9-2013. Workman says that in disciplinary proceeding, he was exonerated in 2005. He was given promotion as Sr. Assistant from 1-4-99, Special Assistanat from 1-4-01 as

per order dated 1-6-06. On pretext of disciplinary proceedings were pending, after completion of disciplinary proceedings, he was promoted. The chargesheet issued to him after 7 years. The allowances were paid w.r.t. 1-4-99 and 1-4-01 every months. He claims interest at rate of over draft 24-25% Management cannot be blamed for said delay. Immediately after the writ appeal was dismissed by Hon'ble High Court, enquiry was completed, workman was exonerated. The order for payment of arrears of salary was passed on 1-6-06. The payment should have been made within reasonable time. However the payment of arrears was paid on 30-3-07, 14-5-07, 26-5-07 by the respective branches. Therefore workman is entitled to reasonable interest on amount of arrears paid to workman from above dates. Accordingly I record my finding in Point No.1.

8. Point No.2-In view of my finding in Point No.1 that workman is entitled to interest on amount of arrears paid to him, in my considered view 9% interest on said amount would be appropriate. For above reasons, I record my finding in Point No. 2.

9. In the result, award is passed as under:-

- (1) The action of the Deputy General Manager, State Bank of India, Zonal Office, Vijay Nagar, Jabalpur (MP) in not considering interest on delay payment of arrears to Shri S.A. Henry, Sr. Assistant, SBI, SBI Jawaharganj Branch, Jabalpur is not proper and legal.
- (2) Workman is entitled to interest 9% per annum on amount of arrear of salary paid to him on 30-3-07, 14-5-07, 26-5-07 by Jawaharganj branch, Rajgarh branch and OFK branch from 1-6-06 till the date of respective payments.
- (3) Parties to bear their respective costs.—

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का०आ० 1854.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक इंदौर प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 238/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं० एल-12012/809/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1854.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.238/98) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Jabalpur as

shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 11/09/2015.

[सं एल-12012/80/98-आई आर (बी-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/238/98

General Secretary,
Daily Wages Bank Employees Association,
Hardev Niwas, 9
Sanwer Road, Ujjain ...Workman Union

Versus

Managing Director,
State Bank of Indore,
State Bank of India, Head Office,
5, Y.N. Road,
Indore ...Management

AWARD

Passed on this 17th day of August, 2015

1. As per letter dated 30-10-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/80/98-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Managing Director, State bank of Indore in terminating the services of Shri Sharad Maheshwari w.e.f. 28-3-97 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through Union at Page 2/1 to 2/3. Case of workman is that he was engaged as peon in Freeganj branch, Ujjain from 1-9-94. He was working from 10.30 AM to 6 PM.

He was working with devotion. He was paid for six days in a week by payment voucher. His signature was obtained. Payment was made to him in name of different persons. On payment of bonus, he was terminated without notice on 30-5-97. That he completed 240 days continuous service during each of the year. He is covered as employee under Section 25 B of ID Act. After termination of his service, other persons are engaged on daily wages. His services are terminated without paying retrenchment compensation as per Sastry Award, Para 507, 524. Termination of his service is in violation of Section 25-F of ID Act. During pendency of conciliation proceedings, his services were terminated

in violation of Section 33 of ID Act. On such ground, workman is praying for reinstatement with backwages.

3. 2nd party filed Written Statement at Page 6/1 to 6/6 opposing claim of the workman. 2nd party raised preliminary objection that the statement of claim is verified by Shri R. Nagwanshi. the claim is not tenable. Union was not party in conciliation proceeding. It has no locus to raise the dispute. Ist party has not produced any document that Union has passed resolution on behalf of workman.

4. 2nd party further submits that Director, State Bank of Indore is not party to the dispute. The dispute raised suffers from misjoinder of parties. 2nd party denies that workman was engaged by Branch Manager from 1-4-94 for cleaning work. All contention about working hours, payment of wages, termination of services of workman is denied. 2nd party denies that workman completed 240 days continuous service. Violation of Section 25-F, G, H is denied. That workman is not working with 2nd party. That he is not entitled to protection of Section 25-F, G, H of ID Act. 2nd party submits that employees in the Bank are appointed after following recruitment process as per rules. Workman was engaged as per exigencies temporarily. He was paid wages for his working days. Workman does not get right of regularisation. Claim of workman cannot be allowed.

5. Ist party workman submitted rejoinder at Page 7/1 to 7/2 reiterating contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the management of Managing Director, State Bank of Indore in terminating the services of Shri Sharad Maheshwari w.e.f. 28-3-97 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

7. Workman is challenging his termination for violation of Section 25-F, G,H,N of ID Act contending that he was continuously working from April 94 to 30-5-97. 2nd party had denied his contentions about his continuous working.

8. Workman filed affidavit of his evidence. However he remained absent for his cross-examination. His evidence cannot be considered. Management's witness Raghunath filed affidavit of his evidence supporting contentions in Written Statement of 2nd party but he remained absent for cross-examination.

9. Management filed affidavit of evidence of Shri Yogesh Chouhan. Management's witness in his affidavit says workman was never engaged by the Bank for cleaning purpose. He was not in employment of the Bank. Appointment letter was not given to workman. Witness failed to appear for his cross-examination. His evidence also cannot be considered. Ist party workman as well as witness of management remained absent for their cross-examination, their evidence could not be considered. The documents Exhibit W-1 produced by workman is letter dated 23-2-01 directing not to engage daily wage employees. Exhibit w-2 is copy of settlement dated 13-7-92. When evidence of workman cannot be considered, Exhibit W-2 itself cannot establish claim of the workman about his working from April 94 to May 97. Therefore as workman failed to establish his continuous working more than 240 days preceding 12 months of his termination, protection of Section 25-F or Exhibit W-2 cannot be extended to him. For above reasons, I record my finding in Point No. 1 in Affirmative.

10. In the result, award is passed as under:—

- (1) The action of the management of Managing Director, State bank of Indore in terminating the services of Shri Sharad Maheshwari w.e.f. 28-3-97 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का.आ. 1855.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संख्या (138/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2015 को प्राप्त हुआ था।

[सं. एल-41012/33/92-आईआर (बी- 1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1855.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 138/93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Railway and their workmen, received by the Central Government on 11.09.2015.

[No. L-41012/33/92-IR (B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/138/93

Shri Nasir Viswas

S/o Shri N.C. Viswas,

Shanti Nagar,

Bhilai, Distt. Durg (MP)

.... Workman

Versus

Divisional Railway Manager (P),

South Eastern Railway,

Bilaspur

...Management

AWARD

Passed on this 12th day of August, 2015

1. As per letter dated 21.07.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/33/92-IR (DU). The dispute under reference related to:

"Whether the action of the management of South Eastern Railway, Bilaspur division in terminating the services of Shri Nasir Viswas, Gangman w.e.f. 14.05.90 is justified? If not, to what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 3/1 to 3/5. Case of workman is that he was appointed as Gangman vide order dated 05.03.90. Without order in writing, he was terminated from 14.05.90. However he was given employment he continued in service without break, without assigning any reasons he was prevented from doing his duties. That there cannot be oral order of termination. In absence of termination in writing, workman claims to be continued in service. That he was orally informed about his termination for using incorrect casual cards. Workman submits that casual cards are not condition precedent for employment. It cannot be a ground for termination of his service. Termination of his service without giving reasonable opportunity to explain his case is illegal. The termination of his service amounts to retrenchment under ID Act. Many persons are employed in Railway, workman was not given chance. He was working in regular post. Vacancies are still existing. Hundreds of persons similarly situated are retained in service, only some persons are removed on the ground of alleged fake service card. The action of management is unfair and violative of Article 14 of the constitution. His services are terminated without compliance of statutory provisions and principle of natural justice.

3. Ist party workman further submits that the action is taken against him without giving opportunity of hearing is arbitrary and illegal. That he never submitted casual card. The casual card is not necessary for casual labours.

Therefore on said ground, services could not be terminated. Terminating his services without giving reasonable opportunity is violative of Article 311 of constitution. CAT Jabalpur filed judgment dated 14.09.87 in Original Application 189/86 and others held services of casual employee cannot be terminated on ground that they have obtained employment by producing fake card without conducting enquiry. On such ground, workman is praying for his reinstatement with backwages.

4. 2nd party filed Written Statement at Page 4/1 to 4/10 opposing claim of the workman. 2nd party has narrated brief history that workman Shri Nasir Viswas was engaged as casual gangman on daily rate basis as per order dated 14.02.90 on the basis of past service certificate. Engagement of workman was subject to verification of his past service card. Memorandum dated 22.02.90 issued to all branches, all units giving understanding that in the event of the working certificate/caste certificate being found false at any time during their engagement, their service would be terminated automatically without any notice. 2nd party submits that on verification, past service card was found false and fabricated. Therefore services of workman were terminated from 10.05.90. There are about 150 candidates whose services have been terminated on above ground. Workman was not holding any civil post at that time. Case of workman does not come under purview of ID Act as the matter relate to cheating and forgery. 2nd party relies judgment by CAT Jabalpur in OA 727/88, Shri B. Sunder Rao versus Union of India and others.

5. That workman was appointed as casual Gangman under PWI on 05.03.90 on the basis of past service certificate. It was found false. The services of workman were terminated on 10.05.90. He has not completed 240 days continuous service. It is reiterated that it was condition at time of engagement if service certificate found false, the service would stand automatically terminated without notice. As past service certificate produced by workman was found false, termination of his service is illegal. In view of above condition, there was no question of giving reasonable opportunity. Workman worked only for 66 days. That out of 861 casual candidates about 150 candidates were terminated for production of false past service. FIR was lodged to police station. As workman has not completed 240 days continuous service, he is not entitled to retrenchment compensation. Engagement of workman was subject to production of past service card. On investigation, it is proved that working certificate produced by workman was found fictitious. Therefore services of workman were terminable without notice. On such ground, 2nd party requests to answer reference in its favour.

6. Ist party workman submitted rejoinder at Page 5/1 to 5/2 reiterating his contentions in statment of claim.

7. Management filed reply to rejoinder at Page 6/1 to 6/3 reiterating contentions in Written Statement.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| (i) Whether the action of the Management of South Eastern Railway, Bilaspur division in terminating the services of Shri Nasir Viswas, Gangman <i>w.e.f.</i> 14-5-90 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

9. Workman is challenging termination of his service on the ground production of past service card was not condition precedent for his engagement as casual employee. Termination of his services on the ground that past service card produced by him was false without giving any opportunity for hearing is illegal.

10. 2nd party denied above contentions of workman. Workman filed affidavit of his evidence supporting contentions in statement of claim that he was appointed on 5-3-90, his services were terminated on 14-5-90. Thus workman was working with 2nd party for two months and 9 days. His services were terminated on the ground past service card produced by him was found false. He was not given opportunity of hearing. Rather workman in his affidavit of evidence has stated that he had not received any memorandum. He had not submitted any fake document for getting appointment. Workman failed to appear for his cross-examination. His evidence was closed on 13-2-2013 therefore evidence of workman cannot be relied.

11. 2nd party filed affidavit of witness Shri R. S. Bepari and Lingaraj Rout. However both the witnesses of management did not appear for his cross-examination. Their evidence also cannot be considered. As such both parties failed to adduce evidence in support of their respective contentions. Parties have not properly participated in reference proceeding. The contentions of workman that his services were terminated without hearing was not condition precedent to produce past service card. That he had not produced past service and cannot be accepted as workman has not appeared for his cross-examination. To be precise, workman failed to substantiate his contentions. Therefore I record my finding in Point No. 1 in Affirmative.

12. In the result, award is passed as under:—

- (1) The action of the management of South Eastern Railway, Bilaspur division in terminating the services of Shri Nasir Viswas, Gangman *w.e.f.* 14-5-90 is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का.आ. 1856.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण पूर्व रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (153/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं एल-41012/73/92-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1856.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the Award (**Ref. 153/96**) of the *Cent. Govt. Indus-Tribunal -cum-Labour Court*, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of **South Eastern Railway** and their workmen, received by the Central Government on 11/09/2015.

[No. L-41012/73/92-IR(B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/153/96

Shri P. Ramarao,
Through Shri P. Venkatswamy,
Rameshwar Nagar,
Bhanpuri, PO RaipurWorkman

Versus

Divisional Railway Manager (P),
South Eastern Railway,
Bilaspur.Management

AWARD

Passed on this 12th day of August 2015

1. As per letter dated 21.7.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/73/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of DRM, South Eastern Railway, Bilaspur in terminating the services of

Shri P. Rama Rao is legal and justified? If not, to what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 2/1 to 2/4. Case of workman is that he was appointed as Gangman vide order dated 19.2.90. Without order in writing, he was terminated from 14.5.90. However he was given employment he continued in service without break, without assigning any reasons, he was prevented from doing his duties. That there cannot be oral order of termination. In absence termination in writing, workman claims to be continued in service. That he was orally informed about his termination for using incorrect casual cards. Workman submits that casual cards are not condition precedent for employment. It cannot be a ground for termination of his service. Termination of his service without giving reasonable opportunity to explain his case is illegal. The termination of his service amounts to retrenchment under ID Act. Many persons are employed in Railway, workman was not given chance. He was working in regular post. Vacancies are still existing. Hundreds of persons similarly situated are retained in service, only some persons are removed on the ground of alleged fake service card. The action of management is unfair and violative of Article 14 of the constitution. His services are terminated without compliance of statutory provisions and principles of natural justice.

3. Ist party workman further submits that the action is taken against him without giving opportunity of hearing is arbitrary and illegal. That he never submitted casual card. The casual card is not necessary for casual labours. Therefore on said ground, services could not be terminated. Terminating his services without giving reasonable opportunity is violative of Article 311 of constitution. CAT Jabalpur filed judgement dated 14.9.87 in Original application 189/86 and others held services of casual employee cannot be terminated on ground that they have obtained employment by producing fake card without conducting enquiry. On such ground, workman is praying of his reinstatement with backwages.

4. 2nd party filed Written Statement at Page 8/1 to 8/6 opposing claim of the workman. Case of 2nd party is workman has not enclosed any documents in supports of his claim. Workman was working in Railway as casual gangman for about 2 ½ months. That while giving appointment to the workman and many other persons, it was clearly mentioned in appointment order if working certificate/caste certificate and other documents submitted found false at any time during their engagement, their services will be terminated automatically without notice. Accordingly the service of workman was terminated as he submitted false certificate of service. It is denied that services of workman was terminated without assigning reasons. The reasons were specifically mentioned in

termination order dated 10.5.90 that workman was given appointment to the post of casual gangman on the ground that he was previously working as casual labour, therefore the reason for termination is correct. It was stipulated in terms of appointment that working certificate/service certificate found false, the services would be terminated automatically without notice. Above contention are reiterated repeatedly. Workman had secured employment on the basis of false certificate of service. Workman was involved in forgery case. Workman was not engaged against regular post. He was engaged as casual gangman on the basis of past service certificate which was found false. The termination order was issued after completing thorough investigation. Workman work for 2 ½ months. Workman had not acquired temporary status. Workman is not covered by Discipline and Appeal Rules. There was no incident of conducting DE against workman. 2nd party submits that though enquiry was conducted by vigilance department, there was no question of giving opportunity of hearing to the workman as he had accepted terms and conditions of his initial appointment. As the workman obtained employment by producing false certificate, his services are automatically terminated. As very long list of casual labours was approved, there was no question of engaging fresh casual employees. That vigilance department in his investigation found past service produced by workman was false. W.r.t. judgment by CAT, Jabalpur, it is submitted that the order was passed beyond its jurisdiction. On such ground, 2nd party prays to answer the reference in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:

- | | |
|--|--|
| (i) Whether the action of the management of DRM, South Eastern Railway, Bilaspur in Terminating the services of Shri P. Rama Rao is legal and justified? | In Affirmative |
| (ii) If not, what relief the Workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. The engagement of workman on 19-2-90 as casual gangman and termination of his service from 14-5-90 is not in dispute. Workman had worked for about 2 1/2 months. As per his own pleadings, workman had not completed 120 days and could not acquire temporary status. Workman has also not completed 240 days continuous service. He is not covered as employee under Section 25 B of ID Act. Consequently workman is not entitled to protection under Section 25-F of ID Act or retrenchment compensation.

7. Workman filed affidavit of his evidence covering his

contentions in statement of claim that he was appointed on 19-2-90 and continued to work without break till 14-4-90. His services were terminated from 15-4-90 on the ground of using fake casual cards. It was not condition precedent to produce casual cards for employment. The termination of service without giving opportunity of hearing is illegal. It amounts to retrenchment. In his cross, workman says he signed in Telugu. He does not know Hindi English. He was not given any certificate. He had not produced any documents at the time of his appointment.

8. Management filed affidavit of witness Shri R.S. Bepari but management's witness did not appear for his cross-examination therefore their evidence cannot be considered. Management's witness Shri Lingaraj Rout filed affidavit of his evidence supporting contentions of 2nd party. In his cross-examination, Shri Lingaraj says copy of Exhibit M-1 was given to workman. He denied that said document was received from other office, denies that it is no circular issued by the office. In 1990, he was working in Traffic Apprentice Training, Chankradarpur. He claims ignorance what process was followed while appointing workman. He had seen appointment letter of workman. He was not concerned with appointment or termination of workman. Documents on which his affidavit is based are produced on record. Workman was appointed on basis of past service card. The document in that regard is produced. He was not involved in investigation and verification of the documents. Management's witness in his further cross says inspector was sent for verifying past service card of workman. He found it was false. On its basis, he has made statement in para-6 of affidavit. The order of termination was issued to workman on 10-5-90. The record was stolen from office. Workman was not given notice prior to termination of his service. Management's witness claims ignorance about the date of committing theft of records. He did not see report of security guard about the theft. The report to police was submitted by management. The witness was unable to tell name of the Officer. Document Exhibit M-1 office memorandum dated 14-2-90 refers to engagement of casual gangman till period 31-3-90. The note further provides the working certificate/case certificate/service certificate if found false at any time during their engagement, the services would be terminated automatically without any notice. Document Exhibit M-1 corroborate evidence of MW-1. Workman has not produced order of his appointment or termination. Rather evidence of workman is that it was not precondition for employment produced past service card. Exhibit M-1 reverts evidence of workman on above point.

9. Workman was working for about 2 1/2 months. He not completed 240 days continuous service or 120 days continuous service for acquiring regular or temporary status. Therefore termination of service of workman in violation of Section 25-F of ID Act is acceptable.

10. Only point argued is service of workman are terminated without giving opportunity of hearing. Management's witness also says that the services of workman were terminated as per condition in appointment order there was no point of giving opportunity for hearing to the workman. Shri A.K. Shashi appearing for Ist party produced copies of award passed by this Tribunal. In zR/116/99, claim of workman was rejected therefore the award doesnot support claim of the workman. In R/46/06, relying ratio in case of Nepal Singh versus State of UP reported in AIR-1980-SC-1459 and considering the documents or Exhibit M-1, IInd Party has directed candidates should not be re-engaged in circumstances that their names are recorded in the blank list register. Further FIR with police will be lodged under Sectin 420 of IPC for cheating and forgery. It was found that workman was not given opportunity of hearing before discharge of his service, the discharge order/termination is in violation of Article 311 of the Constitution would not be upheld. In present case, both parties have not produced order of termination of workman that document relating similar directions were also issued in termination order of workman could not be ascertained. Therefore ratio held in AIR-1980-SC-1459 could not be applied to case at hand.

11. Counsel for 2nd party Shri Vijay Tripathi relies on ratio held in

Case of State of MP and others versus Shyama Pardhi and others reported in 1996(7)SCC-118. Their Lordship considering persons not possessing the pre-requisite qualifications prescribed by statutory rules wrongly selected and after successful completion of training appointed as Auxilliary Nurse cum Midwife. In such circumstances their initial selection to undergo training being per se illegal, termination of their appointment, held did not attract principles of natural justice.

The facts of present case are not comparable. What was the qualification prescribed as per rules for engagement of casual gangman is not brought on record by either parties. In present case controversy between parties about his termination of service on the ground of past service card submitted by workman was found false. Workman claims that submission of past service card was not necessary. As per Exhibit M-1, submission of past service card was necessary therefore the ratio held in the case cannot be beneficially applied to case at hand.

12. Shri Vijay Tripathi counsel for 2nd party relies on ratio held in

"Case of Union of Indias versus Soran Singh by Delhi High Court. In above cited case also the service of workman was terminated on the ground that bogus casual card was produced by workman. His Lordship in Para-6 of the judgement observed in statement filed by the workman before the Tribunal, workman stated that

allegations were made against him that he obtained fake/ bogus certificate and got employment in railways. he was served a notice to this effect on 8-1-87 and the management did not wait for his explanation and terminated him on 9-1-87. Nowhere in his statement of claim he stated that he had not obtained employment on the basis of a fake/bogus casual card or that he was having a genuine certificate. His only claim was that even if he was involved in a fraud as per principles of natural justice, he could not be removed from services without giving an opportunity of hearing."

In present case, workman has pleaded that it was not precondition to produce past service card. That he has not produced such certificate. However Exhibit M-1 shows that services could be terminated if past service card was found bogus. Parties have not produced order of appointment or termination. Evidence of management's witness is corroborated by Exhibit M-1. The pleadings and evidence of workman are silent how he was appointed as casual gangman in absence of casual service card required as per Exhibit M-1. The above cited case squarely covers the controversy between parties.

In Para 17, his Lordship held that Tribunal miserably misdirected itself in directing reinstatement of the respondent with 50% backawages. The respondent was not a workman in the sense that he entered into service by fraudulent means. There was no reason with the Tribunal to disbelieve enquiry conducted by the Vigilance of the railways and consequently termination of all those who have obtained appointment by fraud. The award was found perverse.

As present case is alo identical, ratio applies to present case also. Therefore I record my finding in Point No. 1 in Affirmative.

13. In the result, award is passed as under:-

- (1) The action of the management of DRM, South Eastern Railway, Bilaspur in terminating the services of Shri P. Rama Rao is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2015

का०आ० 1857.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस ई रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या (7/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/09/2015 को प्राप्त हुआ था।

[सं० एल-41012/14/92-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th September, 2015

S.O. 1857.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 7/93) of the Cent. Govt.

Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of S.E. Railway and their workmen, received by the Central Government on 11/9/2015.

[No. L-41012/14/92-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/7/93
Shri Mohan Paswan,
Q. No. 781/B,
Construction Colony,
SE. Rly., Bilaspur.

... Workman

Versus

Sr. Accounts Officer (Construction),
S.E. Railways,
Bilaspur

... Management

AWARD

Passed on this 3rd August, 2015

1. As per letter dated 7.1.93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/14/92-IR(DU). The dispute under reference relates to:

"Whether the action of the management of S.E. Railway, Bilaspur in terminating the services of Shri Mohan Paswan, Ex-Pay Clerk *w.e.f.* 11.6.86 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 5/1 to 5/6. Case of workman is that he was appointed in Railway Service a Clerk in 1958 by financial advisor and Chief Accounts Officer, NE Railway, Gorakhpur. He was transferred to Bailadila Railway project as Clerk in 1961. He was appointed as Pay Clerk by Financial Advisor and Chief Accounts Officer in 1968. He was posted to the construction department of S.E. Railway, Bilaspur. Applicant was on duty at Rourkela on 19.12.78 for making payment to the staff of District Engineer (Construction), Rourkela. He was staying in the office at Rourkela. In night of 19-20.12.78, theft took place involved loss of Rs. 25,705.84. the matter was reported to GPRF Rourkela in the morning of 20.12.78. GRPF was also informed about the incident. 2nd party No. 3 issued chargesheet to him on 16.3.79. His allegations were of (i) making false complaint of theft of cash to the GRPF, (ii) misappropriating the Railway Cash of Rs. 25,705.84. workman had denied charges against him. He had also submitted that the proceeding was subjudice

before Sub Divisional Magistrate, Panposh (Orissa) regarding same charges. He requested to stay the Enquiry Proceedings. His request was not considered. Enquiry Committee comprising Sr. Account Officer, Bilaspur and Security Officer, RPF was constituted for enquiring the charges. His request to stay enquiry Proceedings was not considered. Enquiry was conducted in disregard of the procedure laid down under Railway Service Discipline Rules. Principles of natural justice were violated. Documents No. 4, 5 in Annexure 3 in chargesheet were not proved during enquiry. The authors of the documents were not examined. He was not given opportunity to cross examine the witnesses. Only one witness was mentioned in Annexure 4 of the chargesheet. He could not be produced because of his death. 8 more witnesses were produced without providing their statement to the workman. The decision of SDJM that false report was submitted to police was relied by Enquiry Officer. Workman had challenged such proceeding before filing revision. The order passed by SDJM was set aside by Session Judge. The matter was remitted back to SDJM. The findings of Enquiry Committee are not based on evidence during Enquiry. His findings are based on conjecture. Proper procedure was not followed causing violation of natural justice. Enquiry Committee considered extraneous issues such as money lending by workman which was not subject matter of the charges. It is reiterated that the enquiry is vitiated. The disciplinary authority was not enquiry Officer. Workman was punished on the material contention in Enquiry Report was not brought to his notice. Workman was not given opportunity for his defence. On such ground, workman prays that punishment of removal from service as per order dated 9.6.86 be quashed. Workman prays for his reinstatement with backwages.

3. Workman died during pendency. His LRs are substituted.

4. 2nd party filed Written Statement at Page 9/1 to 9/7 opposing claim of the workman. 2nd party submits that workman was appointed to Railway service on July as clerk by Sr. Accounts Officer of NE Rly, Gorakhpur. Workman was transferred as clerk to the office of Dy. Financial Advisor and Chief Accounts Officer, Dandakaranya Bailadila Kiruburu Railway Project, Rourkela in 1961. Workman was promoted to officiate as junior pay clerk from 19-5-67. By Dy. Financial Advisor and Chief Accounts Officer. That workman was working as Junior Cashier at Bilaspur since 25-4-75. He was entrusted with disbursement of cash to Railway employees Mahendragarh on 19-12-78, workman left for Rourkela after making payments at Mahendragarh and Akaltara. He reached Rourkela at 17.30 hours and halted in the office of District Engineer (Const.) workmen committee gross misconduct. Workman made false complaint to police about theft and misappropriating amount of Rs. 25,705.84. After issuing chargesheet, enquiry was conducted against workman. It is reiterated

that there is no bar in conducting enquiry during pendency of criminal case. Workman was given full opportunity for his defence. The report given by workman about theft for offence under Section 457 of IPC. Said articles were returned. 2nd party denies the contentions w.r.t. filing revision by workman and the order passed by SDJM setting aside by Apex Court. Enquiry was conducted following prescribed procedure and principles of natural justice. The special report of Security Officer, Chakradhar was produced. Said report was based on facts and figures. The defence never expressed to cross-examine authors of those documents and accused the same. Workman cannot object to the documents. Supply list of 8 witnesses was furnished to workman by Disciplinary Authority. In absence of stay order, enquiry was conducted. Copies of statement of witnesses were made available to workman by Enquiry Officer. All adverse contentions of workman have been denied. It is denied that case is pending before Court of law. It is submitted that Disciplinary Authority need not be Enquiry Officer. Workman was found guilty of charges against him. The Disciplinary Authority considered the charges and found workman not fit, to be retained in Railway service. Relief claimed by workman cannot be allowed.

5. As per order dated 17-6-2014, enquiry conducted against workman is found legal. Issue No. 2 was answered that there is no need to prove misconduct by management adducing evidence.

6. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of removal imposed against workman is proper and legal?	In Affirmative
(iii) If not, what relief the workman is entitled to?"	Workman not entitled to any relief.

REASONS

7. Workman is challenging legality of the order of punishment of removal from service. Enquiry is found legal and proper. Note needs to be taken that the workman or his LR have not adduced any evidence to support the claim.

8. 2nd party has produced documents of appointment order of workman of April 1958, report of Enquiry Officer,

Enquiry Officer had considered defence statement and evidence was assessed at Page 11/11 to 11/16. Report of Enquiry Officer finds enclosures of statement of witnesses and minutes of Enquiry Proceedings. Copies of statements of witnesses Chandrapratap Pandey, Baniram Mishra, Sheodharshan are produced. Documentary evidence was discussed at Page 11/26 to 11/27. Copies of Enquiry proceedings dated 19-12-85 is produced at page 11/28. The statement of workman is produced at 11/13 to 11/25. Statement of Tichen Behra produced at 11/37 to 11/38. Statement of Shri S.G. Guha, Section Officer produced at 11/39 to 11/40. Statement of Shri G.K. Dey is produced at Page 11/41. Copies of evidence recorded before Enquiry Officer is also produced. Statements of all those witnesses shows that doors of offices where workman was staying were found closed in the morning. The theft of amount alleged by workman was not established. The evidence before Enquiry Officer is sufficient to prove that report submitted by workman was not proved. Amount of Rs. 25,705.84 carried by workman for payment to the Railway Staff was not disbursed to them. The findings of Enquiry Officer are supported by statements of witnesses therefore I record my finding in Point No. 1 in Affirmative.

9. Considering findings on Point No. 1 that the charges against workman are proved, punishment of removal imposed by Disciplinary Authority appears appropriate and no interference in the punishment order is required. For above reasons, I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:—

- (1) The action of the management of S.E. Railway, Bilaspur in terminating the services of Shri Mohan Paswan, Ex. Pay Clerk *w.e.f.* 11-6-86 is legal and proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1858.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स लाईफ इश्योरेन्स कापोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 84/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं० एल-17025/2/2015-आईआर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1858.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/2014) of the Central

Government Industrial Tribunal/Labour Court, Chennai, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workmen, which was received by the Central Government on 08/09/2015.

[No. L-17025/2/2015-IR(M)]
NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, CHENNAI

Thursday, the 27th August, 2015

Present: K.P. PRASANNA KUMARI,

Presiding Officer

Industrial Dispute No. 84/2014

(In the matter of the dispute for adjudication under Sub-Section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010) between the Management of LIC of India and their workman)

BETWEEN

Sri G. Karthick : 1st Party/Petitioner

AND

1. The Zonal Manager : 2nd Party/1st Respondent
Life Insurance Corporation
of India
LIC Building, Anna Salai
Chennai-600002
2. The Divisional Manager : 2nd Party/2nd Respondent
Divisional Officer-II
Life Insurance Corporation
of India
C-47, Anna Plaza, II Avenue,
Anna Nagar
Chennai-600040

Appearance:

For the 1st Party/Petitioner : M/s. Balan Haridas,
Advocates

For the 2nd Party/1st & : Sri C.K. Chandrasekhar,
2nd Management Advocate

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-Section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010).

2. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner has completed his BBA Course through Distance Education. He was engaged by the Respondents to do the work of Office Assistant/Peon. He had joined the Office of the Second Respondent on 22.09.2011. He had been working continuously with the Second Respondent. He was paid wages initially @ Rs. 250/- per day and the same was increased to Rs. 360/- per day later. He was paid on weekly basis raising voucher under the head "Unkeep and Cleaning Material". This was done to circumvent law. The petitioner had worked for more than 480 days continuously during the period of 24 calendar months. So the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the services of the petitioner would amount to retrenchment. In the absence of compliance with Section-25 F of the ID Act the termination is *void abinitio*. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Anyhow the employment of the petitioner is protected by the provisions of ID Act and the same will override the so-called instructions. An order may be passed holding that termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie charges on various dates from 22.09.2011 to 31.08.2013. The charges was paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and he was paid for the same. It is denied that the petitioner worked against the post for 480 days in 24 calendar months to claim permanency. Casual engagement of need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment

against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID Act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need bases would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext.W1 to Ext.W70 and Ext.M1 to Ext.M3.

6. The points for consideration are:

- (i) Whether the termination of the petitioner by the Respondents from service is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. The petitioner has claimed that he had been working as Office Assistant/Peon in the office of the Second Respondent from 22.09.2011 but he was orally terminated from service on 30.08.2013 without any justification. He has claimed that he is entitled to be reinstated in the service of the First Respondent. According to the petitioner he was doing the work of filing papers, cleaning the office and all sundry works entrusted to him in the Office of the Second Respondent. Initially he was paid @ Rs. 250/- per day and later it was increased to Rs. 360/- per day and payment was made on weekly basis. According to him, though voucher was raised under the head "Upkeep and Cleaning Material" for making payment, this was only to

circumvent the laws. The petitioner has given evidence and also produced documents to substantiate his case that he was continuously working in the office of the Second Respondent from 22.09.2011 until he was terminated from service on 30.08.2013.

8. The Respondents have stated in the Counter Statement that the petitioner was working in the office of the Second Respondent during the period from 22.09.2011 to 31.08.2013. However, it is not admitted by the Respondents that the petitioner was working as Peon or Office Assistant. Their case is that the petitioner was engaged only to do some petty works and coolie charges were paid to him for cleaning, dusting and upkeep works of the Branch. The Respondents have denied the case that the engagement was continuous or that the employment was regular.

9. The documents marked as Ext.W1 to Ext.W70 would show that the petitioner was working in the office of the Second Respondent almost on all days continuously except for gap of a few days. He had worked for more than 240 days during the last 12 months preceding the termination, as could be seen from Ext.W1 to Ext.W70 which are not disputed. It is clear from these documents that payment was mostly made weekly and a fixed amount was paid for each day. No payment is seen made for holidays other than for the holidays on which he had worked.

10. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning, dusting and other upkeep works. This is what stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the work that were usually done by the Sub-Staff. MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext.W1 to Ext.W70 also would show that almost on all occasions the petitioner was paid once in a week calculated on an amount fixed as wage per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on a sanctioned post. He has not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for regularization except for the claim of permanency under Section-3 of the Tamil Nadu Act. So it is clear that the petitioner was working on daily wages and not on any sanctioned post.

11. Before dealing with the other contentions of the petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states that notwithstanding anything

contained in any law in force every workman who is in continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be in continuous service is given in the next sub-section of Section-3. On going through Ext.W1 to Ext.W70 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

12. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in *Elayaperumal vs. State Bank of India* (WRITAPPEAL NO. 1372 of 2006 decided on 08.01.2007). The Hon'ble High Court has held in this case that the provisions of the Permanent Status Act will apply to Banks including nationalized banks. Another decision referred to by the counsel for the petitioner is *HINDUSTAN PETROLEUM CORPORATION LTD. VS. PRESIDING OFFICER, CGIT, CHENNAI* reported in 2008 4 CTC 819 where it was held that the Act is applicable to Hindustan Petroleum Corporation Ltd. Another decision relied upon is *LAKSHMI VS. THE CHIEF ENGINEER, TNEB* reported in 2012 3 LLN 681 wherein it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondents that the second decision referred to has been taken to the Apex Court and has been compromised. In the last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well apply to the same. The operation of the other decision referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed, it could not be acted upon and there is no question of the principle laid down in the decision being applied. So the contention of the petitioner that he is entitled to the benefit of Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

13. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(k) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondents that the termination of the petitioner was done without complying with Section-25F of the ID Act. So there is no necessity to refer to various decisions relied upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that the termination in violation of Section-25F of the Act will be *void abinitio*.

14. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext.M1. One of the appellants in the several civil appeals decided by Ext.M1 order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement or permanency. While this case was pending, the Corporation had framed a scheme as below:

One time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into the LIC of India would be considered. For this purpose LIC of India would hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and/or not successful shall cease to be in employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

* * * * *

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees interms of the scheme.

15. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were turned out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

16. the counsel for the petitioner has been mainly relying upon the decision of the Apex Court in *TAMIL NADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION VS. LIC OF INDIA AND OTHERS* in Civil Appeal No. 6951/2009 and other appeals in this respect. In this the Apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a

compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards existing since those awards were not set aside even after the compromise. It has also been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

17. The counsel for the Respondents has pointed out that Civil Appeal No. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext. M1 cases since the issues involved in those cases were different from the cases considered in Ext. M1 order. On going through Ext. M1 it could be seen that such a representation was made and it is accordingly those appeals were de-tagged. The workman involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into by the Corporation with some of the Unions while a case was pending. In Civil Appeals Nos. 6951/2009 and other cases it has been held that direction given to the Corporation as per the Award regarding other workmen who were parties to the case and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for the Respondents that it is in this background the decision has been rendered.

18. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the ID Act is not applicable to the workers of the Corporation. Reference was made to the decision in *M. VENUGOPAL VS. THE DIVISIONAL MANAGER, LIC OF INDIA* reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-section 2(C) of Section-48 which has been incorporated in LIC Act by amendment, and other provisions. Section-48 of the Act provides that the Central Government may make rules to carry out the purposes of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause-2(A). Clause-2C of the same section states that the provisions of Clause (cc) and Sub-section 2B and any rules made there under shall have effect notwithstanding any judgment, decree or order of the any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in Venugopal's case referred to above that the wisdom of the legislature in extending the protection

of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Court unless any such step is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 the employees of the Corporation shall not be entitled to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision *A.V. NACHANE VS. UNION OF INDIA* reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section-48 (2C) read with Section-48 (2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex Court. The counsel has also referred to the decision of the Apex court in *LIC OF INDIA VS. ASHARAMCHAND AMBEDKAR* reported in 1994 2 SCC 718 where it was held that the instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation had issued several instructions on the basis of which the petitioner and such other had ceased to be in employment. It has been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext.M1 were pending and those were treated separately and decided separately in the back ground referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions for the ID Act are applicable and need not be referred to.

19. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section-25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred to the decision of the High Court of Kerala in LIC OF INDIA VS. USHA KUMARI AND OTHERS in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found in applicable to the employees of the Life Insurance Corporation and has held that the provisions contained in Section-48(2C) of the LIC Act would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section-25F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. This being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the consequence. The petitioner had not completed 5 years as daily wager in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1 Sri. G. Karthick
Petitioner

For the 2nd Party/ : MW1 Sri. B. Seetharaman
Management

: MW2 Sri. S. Shrinivas Purushan

Documents Marked:

On the side of the Petitioner

Ex. No.	Date	Description
Ext. No. W1	18.01.2012	Payment Vouchers
Ext. No. W2	23.01.2012	Payment Vouchers
Ext. No. W3	09.01.2012	Payment Vouchers
Ext. No. W4	30.01.2012	Payment Vouchers
Ext. No. W5	06.02.2012	Payment Vouchers
Ext. No. W6	13.02.2012	Payment Vouchers
Ext. No. W7	20.02.2012	Payment Vouchers
Ext. No. W8	27.02.2012	Payment Vouchers
Ext. No. W9	05.03.2012	Payment Vouchers
Ext. No. W10	26.03.2012	Payment Vouchers
Ext. No. W11	02.04.2012	Payment Vouchers
Ext. No. W12	16.04.2012	Payment Vouchers
Ext. No. W13	23.04.2012	Payment Vouchers
Ext. No. W14	07.05.2012	Payment Vouchers
Ext. No. W15	14.05.2012	Payment Vouchers
Ext. No. W16	21.05.2012	Payment Vouchers
Ext. No. W17	28.05.2012	Payment Vouchers
Ext. No. W18	25.06.2012	Payment Vouchers
Ext. No. W19	02.07.2012	Payment Vouchers
Ext. No. W20	09.07.2012	Payment Vouchers
Ext. No. W21	09.07.2012	Payment Vouchers
Ext. No. W22	23.07.2012	Payment Vouchers
Ext. No. W23	28.07.2012	Payment Vouchers
Ext. No. W24	06.08.2012	Payment Vouchers
Ext. No. W25	13.08.2012	Payment Vouchers
Ext. No. W26	18.08.2012	Payment Vouchers
Ext. No. W27	27.08.2012	Payment Vouchers
Ext. No. W28	01.09.2012	Payment Vouchers
Ext. No. W29	10.09.2012	Payment Vouchers
Ext. No. W30	17.09.2012	Payment Vouchers
Ext. No. W31	24.09.2012	Payment Vouchers
Ext. No. W32	29.09.2012	Payment Vouchers
Ext. No. W33	09.10.2012	Payment Vouchers
Ext. No. W34	15.10.2012	Payment Vouchers
Ext. No. W35	22.10.2012	Payment Vouchers
Ext. No. W36	29.10.2012	Payment Vouchers
Ext. No. W37	03.11.2012	Payment Vouchers
Ext. No. W38	10.11.2012	Payment Vouchers
Ext. No. W39	19.11.2012	Payment Vouchers
Ext. No. W40	24.11.2012	Payment Vouchers
Ext. No. W41	08.12.2012	Payment Vouchers
Ext. No. W42	17.12.2012	Payment Vouchers
Ext. No. W43	22.12.2012	Payment Vouchers
Ext. No. W44	31.12.2013	Payment Vouchers
Ext. No. W45	07.01.2013	Payment Vouchers
Ext. No. W46	21.01.2013	Payment Vouchers
Ext. No. W47	28.01.2013	Payment Vouchers
Ext. No. W48	04.02.2013	Payment Vouchers
Ext. No. W49	09.02.2013	Payment Vouchers
Ext. No. W50	18.02.2013	Payment Vouchers
Ext. No. W51	19.02.2013	Payment Vouchers
Ext. No. W52	25.02.2013	Payment Vouchers
Ext. No. W53	02.03.2013	Payment Vouchers
Ext. No. W54	11.03.2013	Payment Vouchers
Ext. No. W55	25.03.2013	Payment Vouchers
Ext. No. W56	06.04.2013	Payment Vouchers
Ext. No. W57	15.04.2013	Payment Vouchers
Ext. No. W58	22.04.2013	Payment Vouchers
Ext. No. W59	29.04.2013	Payment Vouchers
Ext. No. W60	07.05.2013	Payment Vouchers
Ext. No. W61	13.05.2013	Payment Vouchers

Ext. No. W62	20.05.2013	Payment Vouchers
Ext. No. W63	27.05.2013	Payment Vouchers
Ext. No. W64	03.06.2013	Payment Vouchers
Ext. No. W65	10.06.2013	Payment Vouchers
Ext. No. W66	24.06.2013	Payment Vouchers
Ext. No. W67	25.06.2013	Payment Vouchers
Ext. No. W68	29.07.2013	Payment Vouchers
Ext. No. W69	05.08.2013	Payment Vouchers
Ext. No. W70	03.09.2013	Payment Vouchers

On the side of the Respondent

Ex. No.	Date	Description
Ext M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Another Vs. D.V. Anil Kumar and Etc. Min Civil Appeal No. 953-968 of 2005
Ext. M2	16.07.2014	Judgment of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Ushakumar and Others
Ext. M3	—	Section 48 (1&2) of the Life Insurance Corporation Act, 1956

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1859.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स लाईफ इंश्योरेन्स कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 83/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं. एल-17025/4/2015 आईआर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1859.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workman, which was received by the Central Government on 08/09/2015.

[No. L-17025/4/2015-IR (M)]
NAVEEN KAPOOR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHENNAI**

Thursday, the 27th August, 2015

Present : K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 83/2014

(In the matter of the dispute for adjudication under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15-09-2010) between the Management of LIC of India and their workman)

BETWEEN

Sri S. Balachandar : 1st Party/Petitioner

AND

1. The Zonal Manager : 2nd party/1st Respondent
Life Insurance Corporation
of India
LIC Building, Anna Salai
Chennai-600002

2. The Divisional Manager : 2nd party/2nd Respondent
Divisional Office-II
Life Insurance Corporation
of India C-47, Anna Plaza,
II Avenue, Anna Nagar
Chennai-600040

Appearance:

For the 1st Party/Petitioner : M/s Balan Haridas,
Advocates

For the 2nd Party/1st & : Sri C.K. Chandrasekhar,
2nd Management Advocate

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010).

2. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner has passed SSLC. Respondent had engaged the services of the petitioner to do the work of Office Assistant/Peon. He had been doing the work of filing papers, cleaning the office and all sundry work entrusted to him in the Office of the Second Respondent. He had joined the office in April 2011 and had been continuously working. Initially he was

paid wages @ Rs. 160/- per day. Later it was revised to Rs. 250/- per day and again to Rs. 360/- per day. He was paid on weekly basis. But voucher had been raised under the head "Upkeep and Cleaning Material". This was done to circumvent the law. The petitioner had worked for more than 480 days continuously during the period of 24 calendar months. So the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the services of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is *void ab initio*. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Anyhow the employment of the petitioner is protected by the provisions of ID Act and the same will override the so-called instructions. An order may be passed holding that the termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity of service and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The Claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie charges on various dates from 01-04-2011 to 31.08.2013. The charges was paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and was paid for the same. It is denied that the petitioner worked against the post for 480 days in 24 calendar months to claim permanency. Casual engagement of need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be

rejected. The petitioner is not entitled to invoke Section-25F of the ID act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need bases would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext.W1 to Ext.W105 and Ext.M1 to Ext.M3.

6. The points for consideration are:

- (i) Whether the termination of the petitioner by the Respondents from service is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. The petitioner is challenging his termination from the service of LIC of India and also seeking a direction to the Respondents to reinstate him with full backwages, continuity of service, etc.

8. The case set up by the petitioner is that he has joined as Office Assistant/Peon in the office of the Second Respondent in April 2011 and had been continuously working in this capacity. According to him he was paid wages @ Rs. 160/- per day initially. This was later revised to Rs. 250/- per day again @ Rs. 360/- per day. According to him though voucher was raised under the head "Upkeep and Cleaning Material", this was only to circumvent the law. He was actually doing the work of filing papers, cleaning the office and doing other sundry work entrusted to him just like any regular Peon in the office.

9. The case that is advanced on behalf of the Respondents is that the petitioner was engaged as a Coolie to do certain petty works in the office. The Respondent has denied the claim of the petitioner that he was working as Peon. However, it is admitted by the Respondent that the petitioner had worked on various dates from 01.04.2011

to 31.08.2013 in the office of the Second Respondent, though the claim is that the payment was as coolie charges.

10. Ext. W1 to Ext. W105 are the payment vouchers produced by the petitioner to show that he was working in the office of the Second Respondent continuously. These vouchers are not disputed by the Respondents. It is clear from the vouchers that the petitioner had been working almost continuously in the office of the Second Respondent except for some gap of a few days. The vouchers would show that the payment used to be made mostly for 6 days work. No payment is seen made for holidays. A perusal of the voucher would reveal that the petitioner had worked almost continuously.

11. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning, dusting and other upkeep works. This is what is stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the work that were usually done by the Sub-staff. MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext. W1 to Ext. W105 also would show the almost on all occasions the petitioner was paid once in week calculated on an amount fixed as wage per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on a sanctioned post. He has not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for any regularization except for the claim of permanency under Section-3 of the Tamil Nadu Act. So it is clear that the petitioner was working on daily wages and not on any sanctioned post.

12. Before dealing with the other contentions of the petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states the notwithstanding anything contained in any law in force every workman who is in continuous service for a period of 480 days in a period 24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be in continuous service is given in the next Sub-section of Section-3. On going through Ext.W1 to Ext.W105 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

13. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in ELAYAPERUMAL VS. STATE BANK OF INDIA (Writ. Appeal No. 1372 of 2006 decided on 08.01.2007). The Hon'ble High Court has held in this case that the provisions

of the Permanent Status Act will apply to Banks including nationalized banks. Another decision referred to by the counsel for the petitioner is HINDUSTAN PETROLEUM CORPORATION LTD. VS. PRESIDING OFFICER, CGIT, CHENNAI reported in 2008 4 CTC 819 where it was held that the Act is applicable to HINDUSTAN PETROLEUM CORPORATION LTD. Another decision relied upon is LAKSHMI VS. THE CHIEF ENGINEER, TNEB reported in 2012 3 LLN 681 wherein it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondents that the second decision referred to has been taken to the Apex court and has been compromised. In the last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well applies to the same. The operation of the other decisions referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed, it could not be acted upon and there is not question of the principle laid down in the decision being applied. So the contention of the petitioner that he is entitled to the benefit of Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

14. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(k) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondents that the termination of the petitioner was done without complying with Section-25F of the ID Act. So there is no necessity to refer to various decisions relied upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that that termination in violation of Section-25F of the Act will be *void abinitio*.

15. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext.M1. One of the appellants in the several civil appeals decided by Ext.M1. order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement or permanency. While this case was pending, the Corporation had framed a scheme as below:

One time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into the LIC of India

would be considered. For this purpose LIC of India would hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and/or not successful shall cease to be in employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees in terms of the scheme.

16. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were turned out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

17. The counsel for the petitioner has been mainly relying upon the decision of the Apex Court in **TAMIL NADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION VS. LIC OF INDIA AND OTHERS** in civil Appeal No. 6951/2009 and other appeals in this respect. In this the apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards existing since those awards were not set aside even after the compromise. It has also been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

18. The counsel for the Respondents has pointed out the Civil Appeal Nos. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext.M1 cases since the issues involved in those cases were different from the cases considered in Ext.M1 order. On going through Ext.M1 it could be seen that such a representation was made and it is accordingly those appeals were de-tagged. The workmen involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into by the

Corporation with some of the Unions while a case was pending. In Civil Appeal Nos. 6951/2009 and other cases it has been held that the direction given to the Corporation as per the Award regarding other workmen who were parties to the case and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for the Respondents that it is in this background the decision has been rendered.

19. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the ID Act is not applicable to the workers of the Corporation. Reference was made to the decision in **M. Venugopal Vs. the Divisional Manager, LIC of India** reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-section 2(c) of Section 48 which has been incorporated in LIC Act by amendment, and other provisions. Section 48 of the Act provides that the Central Government may make rules to carry out the purposes of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause 2 (A). Clause 2C of the same section states that the provisions of Clause (cc) and Sub-section 2B and any rules made there under shall have effect notwithstanding any judgment, decree or order of the any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in Venugopal's case referred to above that the wisdom of the legislature in extending the protection of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Courts unless any such steps is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 the employees of the Corporation shall not be entitled to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision **A.V. NACHANE VS. UNION OF INDIA** reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section -48 (2C) read with Section 48 (2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees

of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex Court. The counsel has also referred to the decision of the Apex Court in LIC OF INDIA Vs. ASHARAMCHAND AMBEDKAR reported in 1994 2 SCC 718 where it was held that the instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation had issued several instructions on the basis of which the petitioner and such others had ceased to be in employment. It has been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex Court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext.M1 were pending and those were treated separately and decided separately in the background referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions of the ID Act are applicable and need not be referred to.

20. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section 25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred to the decision of the High Court of Kerala in LIC OF INDIA Vs. USHA KUMARI AND OTHERS in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found inapplicable to the employees of the Life Insurance Corporation and has held that the provisions contained in Section 48(2C) of the LIC would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section 25F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. This being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing

employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the consequence. The petitioner had not completed 5 years as daily wager in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri S. Balachandar
Petitioner

For the 2nd Party/1st & : MW1, Sri B. Seetharaman
2nd Management MW2, Sri S. Shrinivas
Purushan

On the side of the Petitioner

Ex.No.	Date	Description
Ext.W1	10.04.2011	Payment Vouchers
Ext.W2	20.06.2011	Payment Vouchers
Ext.W3	29.08.2011	Payment Vouchers
Ext.W4	31.12.2011	Payment Vouchers
Ext.W5	5.12.2011	Payment Vouchers
Ext.W6	06.06.2011	Payment Vouchers
Ext.W7	05.05.2011	Payment Vouchers
Ext.W8	-	Payment Vouchers
Ext.W9	10.10.2011	Payment Vouchers
Ext.W10	15.04.2011	Payment Vouchers
Ext.W11	23.05.2011	Payment Vouchers
Ext.W12	15.10.2011	Payment Vouchers
Ext.W13	24.02.2011	Payment Vouchers
Ext.W14	13.09.2011	Payment Vouchers
Ext.W15	31.10.2011	Payment Vouchers
Ext.W16	14.11.2011	Payment Vouchers
Ext.W17	28.11.2011	Payment Vouchers
Ext.W18	21.11.2011	Payment Vouchers
Ext.W19	05.11.2011	Payment Vouchers
Ext.W20	03.10.2011	Payment Vouchers
Ext.W21	14.01.2012	Payment Vouchers
Ext.W22	25.01.2012	Payment Vouchers

Ext.W23	30.01.2012	Payment Vouchers	Ext.W63	10.12.2012	Payment Vouchers
Ext.W24	06.02.2012	Payment Vouchers	Ext.W64	31.12.2012	Payment Vouchers
Ext.W25	13.02.2012	Payment Vouchers	Ext.W65	07.01.2013	Payment Vouchers
Ext.W26	20.02.2012	Payment Vouchers	Ext.W66	12.01.2013	Payment Vouchers
Ext.W27	14.03.2012	Payment Vouchers	Ext.W67	21.01.2013	Payment Vouchers
Ext.W28	06.03.2012	Payment Vouchers	Ext.W68	29.01.2013	Payment Vouchers
Ext.W29	26.03.2012	Payment Vouchers	Ext.W69	25.02.2013	Payment Vouchers
Ext.W30	02.04.2012	Payment Vouchers	Ext.W70	29.01.2013	Payment Vouchers
Ext.W31	09.04.2012	Payment Vouchers	Ext.W71	01.03.2013	Payment Vouchers
Ext.W32	16.04.2012	Payment Vouchers	Ext.W72	02.03.2013	Payment Vouchers
Ext.W33	23.04.2012	Payment Vouchers	Ext.W73	16.03.2013	Payment Vouchers
Ext.W34	07.05.2012	Payment Vouchers	Ext.W74	25.02.2013	Payment Vouchers
Ext.W35	14.05.2012	Payment Vouchers	Ext.W75	18.02.2013	Payment Vouchers
Ext.W36	28.05.2012	Payment Vouchers	Ext.W76	04.02.2013	Payment Vouchers
Ext.W37	21.05.2012	Payment Vouchers	Ext.W77	11.02.2013	Payment Vouchers
Ext.W38	04.06.2012	Payment Vouchers	Ext.W78	22.02.2013	Payment Vouchers
Ext.W39	18.06.2012	Payment Vouchers	Ext.W79	07.01.2013	Payment Vouchers
Ext.W40	25.06.2012	Payment Vouchers	Ext.W80	21.02.2013	Payment Vouchers
Ext.W41	02.07.2012	Payment Vouchers	Ext.W81	16.02.2013	Payment Vouchers
Ext.W42	09.07.2012	Payment Vouchers	Ext.W82	18.02.2013	Payment Vouchers
Ext.W43	14.07.2012	Payment Vouchers	Ext.W83	02.03.2013	Payment Vouchers
Ext.W44	23.07.2012	Payment Vouchers	Ext.W84	13.03.2013	Payment Vouchers
Ext.W45	30.07.2012	Payment Vouchers	Ext.W85	16.03.2013	Payment Vouchers
Ext.W46	06.08.2012	Payment Vouchers	Ext.W86	25.03.2013	Payment Vouchers
Ext.W47	13.08.2012	Payment Vouchers	Ext.W87	25.03.2013	Payment Vouchers
Ext.W48	18.08.2012	Payment Vouchers	Ext.W88	25.03.2013	Payment Vouchers
Ext.W49	27.08.2012	Payment Vouchers	Ext.W89	08.04.2013	Payment Vouchers
Ext.W50	01.09.2012	Payment Vouchers	Ext.W90	15.04.2013	Payment Vouchers
Ext.W51	10.09.2012	Payment Vouchers	Ext.W91	22.04.2013	Payment Vouchers
Ext.W52	17.09.2012	Payment Vouchers	Ext.W92	29.04.2013	Payment Vouchers
Ext.W53	24.09.2012	Payment Vouchers	Ext.W93	07.05.2013	Payment Vouchers
Ext.W54	29.09.2012	Payment Vouchers	Ext.W94	13.05.2013	Payment Vouchers
Ext.W55	22.10.2012	Payment Vouchers	Ext.W95	27.05.2013	Payment Vouchers
Ext.W56	29.10.2012	Payment Vouchers	Ext.W96	03.06.2013	Payment Vouchers
Ext.W57	06.11.2012	Payment Vouchers	Ext.W97	11.06.2013	Payment Vouchers
Ext.W58	06.11.2012	Payment Vouchers	Ext.W98	18.06.2013	Payment Vouchers
Ext.W59	12.11.2012	Payment Vouchers	Ext.W99	25.06.2013	Payment Vouchers
Ext.W60	19.11.2012	Payment Vouchers	Ext.W100	08.07.2013	Payment Vouchers
Ext.W61	24.11.2012	Payment Vouchers	Ext.W101	15.07.2013	Payment Vouchers
Ext.W62	03.12.2012	Payment Vouchers	Ext.W102	29.07.2013	Payment Vouchers
			Ext.W103	05.08.2013	Payment Vouchers
			Ext.W104	14.08.2013	Payment Vouchers
			Ext.W105	03.09.2013	Payment Vouchers

On the side of the Respondent :

Ex.No.	Date	Description
Ex.M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Another Vs. D.V. Anil Kumar and Etc. Min. Civil Appeal No. 953-968 of 2005
Ex.M2	16.07.2014	Judgment of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Ushakumar and Others
Ex.M3		Section 48 (1&2) of the Life Insurance Corporation Act, 1956.

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1860.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स लाईफ इश्योरेन्स कांर्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 85/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.09.2015 को प्राप्त हुआ था।

[सं एल-17025/4/2015-आईआर (एम)]
नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1860.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/2014) of the Cent.Govt. Indus.Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the management of M/s. LIC of India and their workmen, received by the Central Government on 08/09/2015.

[No. L-17025/4/2015-IR (M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENTAL
INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHENNAI**

Thursday, the 27th August, 2015

Present:

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 85/2014

(In the matter of the dispute for adjudication under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010) between in the Management of LIC of India and their workman)

BETWEEN

Sri S. Vinoth Kumar : 1st Party/Petitioner

AND

1. The Zonal Manager : 2nd Party/1st Respondent
Life Insurance Corporation of India
LIC Building, Anna Salai
Chennai-600002
2. The Divisional Manager : 2nd Party/2nd Respondent
Divisional Office-II
Life Insurance Corporation of India
C-47, Anna Plaza, II Avenue,
Anna Nagar
Chennai-600040

Appearance :

For the 1st Party/Petitioner : M/s Balan Haridas,
Advocates

For the 2nd Party/
Management : Sri C.K. Chandrasekhar
Advocate

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.9.2010).

2. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner has studied upto Plus 2 and has done his B.Com. Course though he is yet to complete two papers. He was engaged by the Respondents to do the work of Office Assistant/Peon. He had been doing the work of filing of papers, cleaning the office and all sundry work entrusted to him by the Office of the second Respondent. The petitioner joined the Office of the Second Respondent on 06.12.2010 and had been continuously working. He was paid @ Rs. 250/- per day initially and this was later increased to Rs. 360/- per day. Payment was made on weekly basis. He was paid by raising voucher under the head "Upkeep and Cleaning Material". He was paid wages every week in Cash. It was only to circumvent the law the wording Upkeep and Cleaning Material was used in the vouchers. The petitioner had worked for

more than 480 days continuously during the period of 24 calendar months. So, the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status of Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the services of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is *void abinitio*. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Anyhow the employment of the petitioner is protected by the provision of ID Act and the same will override the so-called instructions. As order may be passed holding that termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie on various dates from 06.12.2010 to 31.08.2013. Charges were paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and he was paid for the same. It is denied that the petitioner worked against post for 480 days in 24 calendar months to claim permanency. Casual engaged on need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID Act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees

working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need basis would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed a rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext. W1 to Ext. 108 and Ext. M1 to Ext. M3.

6. The points for consideration are:

- (i) Whether termination of the petitioner by the Respondents from service is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. The petitioner has claimed that he was illegally terminated from the service of the Respondents orally on 31.08.2014 and is seeking to reinstate him in service with full backwages, continuity of service and other benefits.

8. According to the petitioner he had joined the service of the First Respondent on 06.12.2010 as Office Assistant/ Peon and was working continuously in this capacity in the office of the Second Respondent until he was terminated from service on 31.08.2013. According to the petitioner initially he was paid wages @ Rs. 250/- per day and later this was increased to Rs. 360/- per day. According to him, though voucher was raised under the head "Upkeep and Cleaning Material", this was only a ploy to circumvent the law.

9. The Respondent has admitted in the counter statement that the petitioner had been working in the Office of the Second Respondent on various dates from 06.12.2010 to 31.08.2013. However, according to the Respondents the petitioner was only doing certain petty works in the office and was paid coolie charges only. He was not working as Peon or Office Assistant.

10. The petitioner has filed Proof Affidavit in lieu of Chief Examination and has also marked payment vouchers as Ext. W1 to Ext. W108 to substantiate his case. The payment vouchers for different period starting from 27.12.2010 and upto 03.09.2013 would show that the

petitioner was working almost continuously in the office of the Second Respondent. It could be deciphered from these payment vouchers that he was working almost regularly in the Office of the Second Respondent. Payment is seen made weekly, mostly and for a fixed rate per day. The vouchers would reveal that payment is made mostly for 6 days excluding holidays. Thus it could be seen that it was not engagement on need basis as claimed by the Respondents but continuous engagement, as could be made out from these vouchers.

11. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning, dusting and other upkeep works. This is what is stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the works that were usually done by the Sub-Staff. MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext. W1 to Ext. W108 also would show that almost on all occasions the petitioner was paid once in a week calculated on amount fixed as wage per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on a sanctioned post. He was not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for any regularization except for the claim of permanency under Section-3 of the Tamil Nadu Act. So it is clear that the petitioner was working on daily wages was not on any sanctioned post.

12. Before dealing with the other contentions of the petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states that notwithstanding anything contained in any law in force every workman who is in continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be in continuous service is given in the next sub-section of Section-3. On going through Ext. W1 to Ext. W108 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

13. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in ELAYAPERUMAL VS. STATE BANK OF INDIA (Writ Appeal No. 1372 of 2006 decided on 08.01.2007). The Hon'ble High Court has held in this case that the provisions of the Permanent Status Act will apply to Banks including nationalized banks. Another decision referred to by the counsel for the petitioner is HINDUSTAN

PETROLEUM CORPN. LTD. VS. PRESIDING OFFICER, CGIT, CHENNAI reported in 2008 4 CTC 819 where it was held that the Act is applicable to HINDUSTAN PETROLEUM CORPORATION LTD. Another decision relied upon is LAKSHMI VS. THE CHIEF ENGINEER, TNEB reported in 2012 3 LLN 681 wherein it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondents that the second decision referred to has been taken to the Apex Court and has been compromised. In the last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well apply to the same. The operation of the other decision referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed, it could not be acted upon and there is no question of the principle laid down in the decision being applied. So the contention of the petitioner that he is entitled to the benefit of Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

14. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(k) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondents that the termination of the petitioner was done without complying with Section-25F of the ID Act. So there is no necessity to refer to various decisions relief upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that the termination in violation of Section-25F of the Act will be *void abinitio*.

15. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext. M1. One of the appellants in the several civil appeals decided by Ext. M1 order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement or permanency. While this case was pending, the Corporation had framed a scheme as below:

On time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into the LIC of India would be considered. For this purpose LIC of India hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and/or not successful shall cease to be in employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees in terms of the scheme.

16. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were turned out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

17. The counsel for the petitioner has been mainly relying upon the decision of the Apex Court in *TAMIL NADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION VS. LIC OF INDIA AND OTHERS* in Civil Appeal No. 6951/2009 and other appeals in this respect. In this the Apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards existing since those awards were not set-aside even after the compromise. It has also been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

18. The counsel for the Respondents has pointed out that Civil Appeal Nos. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext. M1 cases since the issues involved in those cases were different from the cases considered in Ext. M1 order. On going through Ext. M1 it could be seen that such a representation was made and it is accordingly those appeals were de-tagged. The workmen involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into by the Corporation with some of the Unions while a case was pending. In Civil Appeal Nos. 6951/2009 and other cases it has been held that the direction given to the Corporation as per the Award regarding other workmen who were parties to the case

and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for the Respondents that it is in this background the decision has been rendered.

19. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the ID Act is not applicable to the workers of the Corporation. Reference was made to the decision in *M. Venugopal Vs. The Divisional Manager, LIC of India* reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-Section 2(C) of Section-48 which has been incorporated in LIC Act by amendment and other provisions Section-48 of the Act provides that the Central Government may make rules to carry out the purposes of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause-2(A). Clause-2C of the same section states that the provisions of Clause (cc) and Sub-Section 2B and any rules made there under shall have effect notwithstanding any judgement, decree or order of the any Court. Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in *Venugopal's case* referred to above that the wisdom of the legislature in extending the protection of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Courts unless any such step is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 the employees of the Corporation shall not be entitled to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision *A.V. Nachane Vs. Union of India* reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section-48(2C) read with Section-48(2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex

Court. The counsel has also referred to the decision of the Apex Court in LIC of India Vs. Asha Ramchand Ambedkar reported in 1994 2 SCC 718 where it was held that the instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation had issued several instructions on the basis of which the petitioner and such others had ceased to be in employment. It has been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex Court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext. M1 were pending and those were treated separately and decided separately in the background referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions of the ID Act are applicable and need not be referred to.

20. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section-25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred to the decision of the High Court of Kerala in LIC of India Vs. Usha Kumari and Others in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found inapplicable to the employees of the Life Insurance Corporation and has held that the provisions contained in Section-48(2C) of the LIC Act would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section-25F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. This being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the consequence.

The petitioner had not completed 5 years as daily wage in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri S. Vinoth Kumar

For the 2nd Party/
Management : MW1, Sri B. Seetharaman

: MW2, Sri S. Shrinivas
Purushan

Documents Marked:

On the side of the Petitioner

Ex. No.	Date	Description
Ext. W1	27.12.2010	Payment Vouchers
Ext. W2	03.01.2011	Payment Vouchers
Ext. W3	10.01.2011	Payment Vouchers
Ext. W4	14.01.2011	Payment Vouchers
Ext. W5	24.01.2011	Payment Vouchers
Ext. W6	31.01.2011	Payment Vouchers
Ext. W7	07.02.2011	Payment Vouchers
Ext. W8	12.02.2011	Payment Vouchers
Ext. W9	21.02.2011	Payment Vouchers
Ext. W10	28.02.2011	Payment Vouchers
Ext. W11	07.03.2011	Payment Vouchers
Ext. W12	12.03.2011	Payment Vouchers
Ext. W13	21.03.2011	Payment Vouchers
Ext. W14	28.03.2011	Payment Vouchers
Ext. W15	02.04.2011	Payment Vouchers
Ext. W16	05.04.2011	Payment Vouchers
Ext. W17	18.04.2011	Payment Vouchers
Ext. W18	25.04.2011	Payment Vouchers
Ext. W19	02.05.2011	Payment Vouchers
Ext. W20	23.05.2011	Payment Vouchers
Ext. W21	06.06.2011	Payment Vouchers
Ext. W22	27.06.2011	Payment Vouchers
Ext. W23	04.07.2011	Payment Vouchers
Ext. W24	19.07.2011	Payment Vouchers

Ext. W25	25.07.2011	Payment Vouchers	Ext. W67	18.08.2012	Payment Vouchers
Ext. W26	13.08.2011	Payment Vouchers	Ext. W68	27.08.2012	Payment Vouchers
Ext. W27	29.08.2011	Payment Vouchers	Ext. W69	04.09.2012	Payment Vouchers
Ext. W28	22.08.2011	Payment Vouchers	Ext. W70	08.09.2012	Payment Vouchers
Ext. W29	29.08.2011	Payment Vouchers	Ext. W71	17.09.2012	Payment Vouchers
Ext. W30	12.09.2011	Payment Vouchers	Ext. W72	24.09.2012	Payment Vouchers
Ext. W31	17.09.2011	Payment Vouchers	Ext. W73	03.10.2012	Payment Vouchers
Ext. W32	26.09.2011	Payment Vouchers	Ext. W74	12.10.2012	Payment Vouchers
Ext. W33	03.10.2011	Payment Vouchers	Ext. W75	15.10.2012	Payment Vouchers
Ext. W34	10.10.2011	Payment Vouchers	Ext. W76	26.10.2012	Payment Vouchers
Ext. W35	15.10.2011	Payment Vouchers	Ext. W77	07.11.2012	Payment Vouchers
Ext. W36	24.10.2011	Payment Vouchers	Ext. W78	12.11.2012	Payment Vouchers
Ext. W37	05.11.2011	Payment Vouchers	Ext. W79	19.11.2012	Payment Vouchers
Ext. W38	14.11.2011	Payment Vouchers	Ext. W80	27.11.2012	Payment Vouchers
Ext. W39	21.11.2011	Payment Vouchers	Ext. W81	03.12.2012	Payment Vouchers
Ext. W40	28.11.2011	Payment Vouchers	Ext. W82	08.12.2012	Payment Vouchers
Ext. W41	26.12.2011	Payment Vouchers	Ext. W83	18.12.2012	Payment Vouchers
Ext. W42	31.12.2011	Payment Vouchers	Ext. W84	22.12.2012	Payment Vouchers
Ext. W43	09.01.2012	Payment Vouchers	Ext. W85	03.01.2013	Payment Vouchers
Ext. W44	18.01.2012	Payment Vouchers	Ext. W86	09.01.2013	Payment Vouchers
Ext. W45	23.01.2012	Payment Vouchers	Ext. W87	12.01.2013	Payment Vouchers
Ext. W46	30.01.2012	Payment Vouchers	Ext. W88	24.01.2013	Payment Vouchers
Ext. W47	27.02.2012	Payment Vouchers	Ext. W89	30.01.2013	Payment Vouchers
Ext. W48	05.03.2012	Payment Vouchers	Ext. W90	09.02.2013	Payment Vouchers
Ext. W49	26.03.2012	Payment Vouchers	Ext. W91	11.02.2013	Payment Vouchers
Ext. W50	03.04.2012	Payment Vouchers	Ext. W92	16.02.2013	Payment Vouchers
Ext. W51	09.04.2012	Payment Vouchers	Ext. W93	27.02.2013	Payment Vouchers
Ext. W52	23.04.2012	Payment Vouchers	Ext. W94	06.03.2013	Payment Vouchers
Ext. W53	05.07.2012	Payment Vouchers	Ext. W95	19.03.2013	Payment Vouchers
Ext. W54	14.05.2012	Payment Vouchers	Ext. W96	30.03.2013	Payment Vouchers
Ext. W55	21.05.2012	Payment Vouchers	Ext. W97	15.04.2013	Payment Vouchers
Ext. W56	28.05.2012	Payment Vouchers	Ext. W98	22.04.2013	Payment Vouchers
Ext. W57	05.06.2012	Payment Vouchers	Ext. W99	02.05.2013	Payment Vouchers
Ext. W58	19.06.2012	Payment Vouchers	Ext. W100	08.05.2013	Payment Vouchers
Ext. W59	28.06.2012	Payment Vouchers	Ext. W101	27.05.2013	Payment Vouchers
Ext. W60	02.07.2012	Payment Vouchers	Ext. W102	10.06.2013	Payment Vouchers
Ext. W61	09.07.2012	Payment Vouchers	Ext. W103	08.07.2013	Payment Vouchers
Ext. W62	16.07.2012	Payment Vouchers	Ext. W104	15.07.2013	Payment Vouchers
Ext. W63	23.07.2012	Payment Vouchers	Ext. W105	29.07.2013	Payment Vouchers
Ext. W64	30.07.2012	Payment Vouchers	Ext. W106	05.08.2013	Payment Vouchers
Ext. W65	06.08.2012	Payment Vouchers	Ext. W107	14.08.2013	Payment Vouchers
Ext. W66	13.08.2012	Payment Vouchers	Ext. W108	03.09.2013	Payment Vouchers

On the side of the Management

Ex. No.	Date	Description
Ext. M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Anr Vs. D.V. Anil Kumar & Etc. Min. Civil Appeal No. 953-968 of 2005
Ext. M2	16.07.2014	Judgment of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP No. 39055/2002 in the matter of LIC of India Vs. Ushakumar & Others
Ext. M3	—	Sec. 48 (1 & 2) of the Life Insurance Corporation of India Act, 1956.

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1861.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स लाईफ इंश्योरेंस कॉर्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 86/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं० एल-17025/4/2015-आईआर(एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1861.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 86/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workman, which was received by the Central Government on 08/09/2015.

[No. L-17025/4/2015-IR (M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Thursday, the 27th August, 2015

Present: K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 86/2014

(In the matter of the dispute for adjudication under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010) between the Management of LIC of India and their workman)

BETWEEN

Sri. T. Kalaiarasan : 1st Party/Petitioner

AND

1. The Zonal Manager : 2nd Party/Respondent
Life Insurance
Corporation of India
LIC Building, Anna Salai
Chennai-600002

2. The Branch Manager : 2nd Party/2nd Respondent
Life Insurance
Corporation of India
City Branch Office No. 10,
Anna Salai
Chennai-600002

3. The Divisional Manager : 2nd Party/3rd Respondent
(Divisional Office-II)
Life Insurance
Corporation of India
C-47, Anna Plaza,
Avenue-II
Anna Nagar
Chennai-600040

Appearance:

For the 1st Party/Petitioner : M/s Balan Haridas,
Advocates

For the 2nd Party/1st, 2nd : Sri C.K. Chandrasekhar,
& 3rd Management Advocate

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-Section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act 24 of 2010 *w.e.f.* 15.09.2010).

2. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner has passed SSLC. The Respondents had engaged the service of the petitioner to do the work of Office Assistant/Peon. He had been filing papers, cleaning the office and doing all sundry work entrusted to him in the Office of the Second Respondent. He had joined the office in January 2006 and had been continuously working. He was paid wages @ Rs. 90/- per day and thereafter it was revised periodically. From September, 2012 he was paid

@ Rs. 360/- per day. The petitioner had worked with the Second Respondent upto 21.04.2010 and thereafter he was deputed to the Third Respondent. The petitioner was paid by raising voucher under the head "*Upkeep and Cleaning Material*", though he was paid in cash weekly. This was done only to circumvent the law. The petitioner had worked for more than 480 days continuously during the period of 24 calendar months. So the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the service of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is *void ab initio*. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Anyhow the employment of the petitioner is protected by the provisions of ID Act and the same will override the so-called instructions. An order may be passed holding that the termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full back wages, continuity and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie on various dates from 15.03.2008 to 14.08.2009 and again from 22.04.2010 to 31.08.2013. The charges were paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and he was paid for the same. It is denied that the petitioner worked against the post for 480 days in 24 calendar months to claim permanency. Casual engagement of need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the

scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need basis would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment to Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext. W1 to Ext. W116 and Ext. M1 to Ext. M3.

6. The points for consideration are:

- (i) Whether termination of the petitioner by the Respondents from service is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The points

7. The petitioner is seeking is set aside the termination of his service by the Respondents and to direct them to reinstate him in service with backwages, continuity of service and other benefits.

8. The petitioner has claimed that he was engaged by the Respondents as Office assistant/Peon and he was doing the work of filing papers, cleaning the office and other sundry works entrusted to him. According to him, initially when he joined the Office of the Second Respondent in January 2006 he was paid wages @ Rs. 90/- per day. It used to be revised periodically. He had worked in the Office of the Second Respondent till 21.04.2010 and thereafter he was deputed to the Office of the Third Respondent. From September, 2010 he was paid wages @ Rs. 360/- per day and payment was made on weekly basis. According to him, voucher was raised under the head "*Upkeep and Cleaning Material*" to circumvent law though payment was made weekly. The petitioner has claimed that having worked for

more than 480 days continuously within a period of 24 months the is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act. He has also claimed that his termination is in violation of Section-25F of the Industrial Disputes Act.

9. The Respondent has admitted in the Counter Statement that the petitioner was engaged on various dates from 15.03.2008 to 14.08.2009 and again from 22.04.2010 to 31.08.2013. However, according to the Respondents the engagement was only to do certain petty works like cleaning, dusting and upkeep works. It is denied by the Respondents that the petitioner had ever worked as Peon or Office Assistant.

10. The petitioner has filed Proof Affidavit and also marked Ext. W1 to Ext. W116 to substantiate his case. Ext. W1 to Ext. W116 are payment vouchers showing payment to the petitioner. Though these are of the period from 03.01.2011 to 03.09.2013, it is clear from the Counter Statement of the Respondents that he had been working even prior to 03.01.2011. The claim of the Respondents is that the engagement of the petitioner was only need basis. However, the vouchers would reveal that the engagement was almost continuous. Payment is seen made weekly by raising vouchers. It could also be deciphered from the vouchers that amount payable for a day was fixed. There is also the evidence given by the petitioner that he was working continuously. It could be seen from the vouchers that the petitioner had worked for more than 240 days during the 12 months preceding the date on which he has last worked. As could be seen the engagement of the petitioner was continuous in nature.

11. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning, dusting and other upkeep works. This is what is stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the work that were usually done by the Sub-Staff MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext. W1 to Ext. W112 also would show that almost on all occasions the petitioner was paid once in a week calculated on wage fixed per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on a sanctioned post. He was not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for any regularization except of the claim of permanency under Section-3 of the Tamil Nadu Act. So, it is clear that the petitioner was working on daily wages and not on any sanctioned post.

12. Before dealing with the others contentions of the

petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states that notwithstanding anything contained in any law in force every workman who is continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be a continuous services is given in the next sub-section of Section-3. On going through Ext. W1 to Ext. W112 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

13. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in *Elayaperumal vs. State Bank of India* (Writ Appeal No. 1372 of 2006 decided on 08.01.2007) The Hon'ble High Court has held in this case that the provisions of the Permanent Status Act will apply to Banks including nationalized banks. another decision referred to by the counsel for the petitioner is *Hindustan Petroleum Corporation Ltd. vs. Presiding Officer, CGIT, Chennai* reported in 2008 4 CTC 819 where it was held that the act is applicable to Hindustan Petroleum Corporation Ltd. another decision relied upon is *Lakshmi vs. The Chief Engineer, TNEB* reported in 2012 3 LLN 681 wherein it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondent that the second decision referred to has been taken to the Apex Court and has been compromised. In that last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well apply to the same. The operation of the other decision referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed. It could not be acted upon and there is no question of the principle laid down in the decision being applied. So the contention of the petitioner that he is entitled to the benefit of Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

14. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(K) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondent that the termination of the petitioner was done without complying with Section-25F of the ID Act. So there is no necessity to refer to various decisions relied upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that the termination in violation of Section-25F of the Act will be *void abinitio*.

15. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext.-M1. One of the appellants in the several civil appeals decided by Ext.M1 order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement for permanency. While this case was pending, the Corporation had framed a scheme as below:

One time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time for their entry into the LIC of India could be considered. For this purpose LIC of India would hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and / or not successful shall cease to be in employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees in terms of the scheme.

16. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were terminated out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

17. The counsel for the petitioner has been mainly relying upon the decision of the Apex Court in *Tamil Nadu terminated full time temporary LIC Employees Association vs. LIC of India and others* in Civil Appeal No. 6951/2009 and other appeals in this respect. In this the Apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards

existing since those awards were not set aside even after the compromise. It has been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

18. The counsel for the Respondents has pointed out that Civil Appeal Nos. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext.M1 cases since the issues involved in those cases were different from the cases considered in Ext.M1 order. On going through Ext.M1 it could be seen that such a representation was made and it accordingly those appeals were de-tagged. The workmen involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into by the Corporation with some of the Unions while a case was pending. In Civil Appeal Nos. 6951/2009 and other cases it has been held that the direction given to the Corporation as per the Award regarding other workmen who were parties to the case and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for the Respondents that it is in this background the decision has been rendered.

19. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the ID Act is not applicable to the workers of the Corporation. Reference was made to the decision in *M. Venugopal vs. The Divisional Manager, LIC of India* reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-Section 2(C) of Section-48 which has been incorporated in LIC Act by amendment, and other provisions. Section-48 of the Act provides that the Central Government may make rules to carry out of the purposes of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause-2(A). Clause-2C of the same section states that the provisions of Clause (cc) and Sub-Section 2B and any rules made there under shall have effect notwithstanding any judgment, decree or order of the any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in *Venugopal's case* referred to above that the wisdom of the legislature in extending the protection of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Courts unless any such step is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 the employees of the Corporation shall not be entitled

to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision A.V. NACHANE VS. UNION OF INDIA reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section-48 (2C) read with Section-48 (2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex Court. The counsel has also referred to the decision of the Apex Court in LIC OF INDIA VS. ASHA RAMCHAND AMBEDKAR reported in 1994 2 SCC 718 where it was held that the instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation had issued several instructions on the basis of which the petitioner and such others had ceased to be in employment. It has been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext.M1 were pending and those were treated separately and decided separately in the background referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions of the ID Act are applicable and need not to be referred to.

20. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section-25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred

to the decision of the High Court of Kerala in LIC OF INDIA VS. USHA KUMARI AND OTHERS in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found inapplicable to the employees of the Life Insurance Corporation and has held that the provisions contained in Section-48(2C) of the LIC Act would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section-25-F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. This being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the consequence. The petitioner had not completed 5 years as daily wager in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri T. Kalaiarasan

For the 2nd Party/Management : MW1, Sri E. Sathyanarayanan

MW2, Sri S. Shrinivas Purushan

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ext.W1	03.01.2011	Payment Vouchers
Ext.W2	14.01.2011	Payment Vouchers
Ext.W3	24.01.2011	Payment Vouchers
Ext.W4	31.01.2011	Payment Vouchers
Ext.W5	05.02.2011	Payment Vouchers
Ext.W6	14.02.2011	Payment Vouchers
Ext.W7	28.02.2011	Payment Vouchers
Ext.W8	19.02.2011	Payment Vouchers

Ext.W9	07.03.2011	Payment Vouchers	Ext.W54	14.05.2012	Payment Vouchers
Ext.W10	12.03.2011	Payment Vouchers	Ext.W55	21.05.2012	Payment Vouchers
Ext.W11	21.03.2011	Payment Vouchers	Ext.W56	28.05.2012	Payment Vouchers
Ext.W12	28.03.2011	Payment Vouchers	Ext.W57	04.06.2012	Payment Vouchers
Ext.W13	02.04.2011	Payment Vouchers	Ext.W58	18.06.2012	Payment Vouchers
Ext.W14	15.04.2011	Payment Vouchers	Ext.W59	25.06.2012	Payment Vouchers
Ext.W15	18.04.2011	Payment Vouchers	Ext.W60	02.07.2012	Payment Vouchers
Ext.W16	25.04.2011	Payment Vouchers	Ext.W61	09.07.2012	Payment Vouchers
Ext.W17	30.04.2011	Payment Vouchers	Ext.W62	16.07.2012	Payment Vouchers
Ext.W18	23.05.2011	Payment Vouchers	Ext.W63	21.07.2012	Payment Vouchers
Ext.W19	27.06.2011	Payment Vouchers	Ext.W64	28.07.2012	Payment Vouchers
Ext.W20	02.07.2011	Payment Vouchers	Ext.W65	04.08.2012	Payment Vouchers
Ext.W21	11.07.2011	Payment Vouchers	Ext.W66	13.08.2012	Payment Vouchers
Ext.W22	11.07.2011	Payment Vouchers	Ext.W67	18.08.2012	Payment Vouchers
Ext.W23	18.07.2011	Payment Vouchers	Ext.W68	27.08.2012	Payment Vouchers
Ext.W24	25.07.2011	Payment Vouchers	Ext.W69	01.09.2012	Payment Vouchers
Ext.W25	29.07.2011	Payment Vouchers	Ext.W70	08.09.2012	Payment Vouchers
Ext.W26	13.08.2011	Payment Vouchers	Ext.W71	15.09.2012	Payment Vouchers
Ext.W27	22.08.2011	Payment Vouchers	Ext.W72	22.09.2012	Payment Vouchers
Ext.W28	29.08.2011	Payment Vouchers	Ext.W73	01.10.2012	Payment Vouchers
Ext.W29	12.09.2011	Payment Vouchers	Ext.W74	08.10.2012	Payment Vouchers
Ext.W30	18.09.2011	Payment Vouchers	Ext.W75	15.10.2012	Payment Vouchers
Ext.W31	26.09.2011	Payment Vouchers	Ext.W76	22.10.2012	Payment Vouchers
Ext.W32	03.10.2011	Payment Vouchers	Ext.W77	29.01.2012	Payment Vouchers
Ext.W33	10.10.2011	Payment Vouchers	Ext.W78	03.11.2012	Payment Vouchers
Ext.W34	15.10.2011	Payment Vouchers	Ext.W79	12.11.2012	Payment Vouchers
Ext.W35	24.10.2011	Payment Vouchers	Ext.W80	19.11.2012	Payment Vouchers
Ext.W36	31.10.2011	Payment Vouchers	Ext.W81	26.11.2012	Payment Vouchers
Ext.W37	05.11.2011	Payment Vouchers	Ext.W82	01.12.2012	Payment Vouchers
Ext.W38	14.11.2011	Payment Vouchers	Ext.W83	10.12.2012	Payment Vouchers
Ext.W39	21.11.2011	Payment Vouchers	Ext.W84	26.12.2012	Payment Vouchers
Ext.W40	24.12.2011	Payment Vouchers	Ext.W85	07.01.2013	Payment Vouchers
Ext.W41	26.11.2011	Payment Vouchers	Ext.W86	12.01.2013	Payment Vouchers
Ext.W42	04.01.2012	Payment Vouchers	Ext.W87	24.01.2013	Payment Vouchers
Ext.W43	23.01.2012	Payment Vouchers	Ext.W88	02.02.2013	Payment Vouchers
Ext.W44	30.01.2012	Payment Vouchers	Ext.W89	11.02.2013	Payment Vouchers
Ext.W45	18.02.2012	Payment Vouchers	Ext.W90	16.02.2013	Payment Vouchers
Ext.W46	27.02.2012	Payment Vouchers	Ext.W91	25.02.2013	Payment Vouchers
Ext.W47	05.03.2012	Payment Vouchers	Ext.W92	02.03.2013	Payment Vouchers
Ext.W48	26.03.2012	Payment Vouchers	Ext.W93	11.03.2013	Payment Vouchers
Ext.W49	02.04.2012	Payment Vouchers	Ext.W94	16.03.2013	Payment Vouchers
Ext.W50	10.04.2012	Payment Vouchers			
Ext.W51	16.04.2012	Payment Vouchers			
Ext.W52	23.04.2012	Payment Vouchers			
Ext.W53	05.07.2012	Payment Vouchers			

Ext.W95	23.03.2013	Payment Vouchers	नई दिल्ली, 15 सितम्बर, 2015
Ext.W96	30.03.2013	Payment Vouchers	का.आ. 1862. —औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स लाईफ इश्योरेन्स कार्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 81/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.09.2015 को प्राप्त हुआ था। [सं० एल-17025/3/2015-आईआर (एम)] नवीन कपूर, अवर सचिव New Delhi, the 15th September, 2015 S.O. 1862. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/2014) of the Central Govt. Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workman, which was received by the Central Government on 08.09.2015. [No. L-17025/3/2015-IR(M)] NAVEEN KAPOOR, Under Secy. ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, CHENNAI Thursday, the 27th August, 2015 Present : K.P. PRASANNA KUMARI, Presiding Officer Industrial Dispute No. 81/2014 (In the matter of the dispute for adjudication under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 w.e.f. 15.09.2010) between the Management of LIC of India and their workman) BETWEEN Shri M. Selva Sathish : 1st Party/Petitioner AND 1. The Zonal Manager : 2nd Party/1st Respondent Life Insurance, Corporation of India LIC Building, Anna Salai Chennai-600 002. 2. The Senior Branch : 2nd Party/2nd Respondent Manager Divisional Office-I Life Insurance Corporation of India No. 25, Whites Road, Mamatha Complex 1st Floor, Royapettah Chennai-600 014.
Ext.W97	06.04.2013	Payment Vouchers	
Ext.W98	15.04.2013	Payment Vouchers	
Ext.W99	20.04.2013	Payment Vouchers	
Ext.W100	29.04.2013	Payment Vouchers	
Ext.W101	04.05.2013	Payment Vouchers	
Ext.W102	13.05.2013	Payment Vouchers	
Ext.W103	20.05.2013	Payment Vouchers	
Ext.W104	03.06.2013	Payment Vouchers	
Ext.W105	08.06.2013	Payment Vouchers	
Ext.W106	17.06.2013	Payment Vouchers	
Ext.W107	25.06.2013	Payment Vouchers	
Ext.W108	15.07.2013	Payment Vouchers	
Ext.W109	29.07.2013	Payment Vouchers	
Ext.W110	05.08.2013	Payment Vouchers	
Ext.W111	12.08.2013	Payment Vouchers	
Ext.W112	03.09.2013	Payment Vouchers	
Ext.W113	-	Application for appointment to the post of Peon	
Ext.W114	April 2004	Payment Vouchers	
Ext.W115	30.06.2004	Payment Vouchers	
Ext.W116	02.06.2011	Payment Vouchers	
On the Management's side			
Ex. No.	Date	Description	
Ext.M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Anr. Vs. D.V. Anil Kumar & Etc. Min. Civil Appeal No. 953-968 of 2005	
Ext.M2	16.07.2014	Judgment of Hon'ble High Court of Kerala in WANO. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Ushakumar & Others	
Ext.M3	-	Sec. 48(1&2) of the Life Insurance Corporation Act, 1956	

Appearance:

For the 1st Party/Petitioner : M/s. Balan Haridas,
Advocates

For the 2nd Party/1st & : Sri C.K. Chandrasekhar,
2nd Management Advocates

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010).

2. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner, a Graduate was engaged by the Second Respondent to do the work of Office Assistance/Peon. He had been doing the work of filing papers, cleaning the officer and all sundry work entrusted to him in the Office of the Second Respondent. He initially joined the office of the Second Respondent on 20.02.2007 and had been continuously working. The initial payment was @ Rs. 90/- per day. Later it was revised as Rs. 360/- Per day and the same was paid on weekly basis. The payment was made by raising voucher under the head "Upkeep and Cleaning Material". The petitioner was not given wages for weekly off or other holidays. The petitioner worked for more than 480 days continuously during the period of 24 calendar months. So the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status of Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the services of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is void abinitio. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Any how the employment of the petitioner is protected by the provisions of ID Act and the same will override the so-called instructions. An order may be passed holding that the termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie on various dates from 20.02.2007 to 30.04.2010. The charges were paid for cleaning, dusting and upkeep works of the branch office

depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and was paid for the same. It is denied that the petitioner worked against the post for 480 days in 24 calendar months to claim permanency. Casual engagement of need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID Act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need bases would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext. W1 and Ext. W2 and Ext. M1 to Ext. M3.

6. The points for consideration are:

- (i) Whether the termination of the petitioner by the Respondents from its services is legal and justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. The petitioner has claimed that he has joined the Office of the Second Respondent as Office Assistant/Peon on 20.2.2007 and had been continuously working in this position until 31.08.2013 on which date he was orally terminated. According to him, he was doing the work of filing of papers, cleaning of office and other sundry works in the Office of the Second Respondent. He was being paid

at daily wage rates though payment was made weekly. According to the petitioner he is entitled to permanency under Section-3 of the Industrial Establishment (Permanent Status to Workman) Act, he having worked for more than 480 days continuously within a period of 24 calendar months. It is further contended by the petitioner that his termination on 31.08.2013 amounts to retrenchment but he has not been issued any notice or paid any notice pay or compensation as required under Section-25F of the Industrial Disputes Act.

8. In the Counter Statement the Respondent has not disputed the case of the petitioner that he was working with the Second Respondent. However, accordingly to the Respondents the petitioner was not engaged as Peon but was engaged only as Coolie to do certain petty works in the office of the Second Respondent. He was being paid for cleaning, dusting and unkeep works depending upon necessary it is stated by the Respondents. According to the Respondents, the employment was never continuous or regular. The job involved was only of menial nature. It was only on need basis the petitioner was put to work. The Respondents have denied the case that the petitioner had worked for more than 480 days in 24 calendar months to claim permanency. It is stated that in any case the petitioner is not entitled to claim permanency under the Tamil Nadu Act, the Industrial Establishment (Conferment of Payment Status to Workman) Act.

9. Before dealing with other aspects of the case it could be seen whether the case of the petitioner that he is entitled to permanency under the Tamil Nadu Act has no basis. Though it is claimed by the petitioner that he had worked for more than 480 days within a period of 24 calendar months the evidence available is not sufficient to accept this contention. The petitioner has produced the Wage Payment Register for the period from 24.02.2007 marked as Ext. W1 and Budget Control Register from the same period marked as Ext. W2. However, it could not be made out from these documents whether the petitioner had worked for more than 240 days within a period of 24 months as required to seek permanency under Section-3 of the Tamil Nadu Act. The argument that is advanced on behalf of the petitioner is that the petitioner has entered the witness box and has given evidence to the effect that he has been working continuously from 2007 until he was terminated from service and he had produced the available documents also and so the burden has shifted upon the Respondents to prove otherwise.

10. The contention based on Section-3 of the Tamil Nadu Act can be dealt with even without considering the above contention that the burden has shifted on the Respondents. The counsel for the petitioner has been relying upon certain decisions in support of his contention. He has referred to WA No. 1372 to 1375 of 2006 in which State Bank of India is the Respondent, Hindustan Petroleum Corporation Ltd. and Another vs. The

Presiding Officer, CGIT, Chennai reported in 2008 4 CTC 819 and also Lakshmi vs. The Chief Engineer, TNEB reported in 2012 3 LLN 681 of the High Court of Madras in support of his argument. In these cases, it has been held that the workers are entitled to permanency under Section-3 of the Tamil Nadu Act. However, it has been informed by both sides that the question is now pending before the Apex Court and the operation of the order of the High Court of Madras had been stayed. The counsel for the petitioner has argued that in spite of the stay the principle laid down by the High Court can be accepted to give the verdict in favour of the petitioner. This will not be possible since the matter has been stayed which means the operation of the order is put under arrest. So the principle laid down cannot be used to give an order in favour of the petitioner.

11. The next contention that is raised on behalf of the petitioner is that termination has been without any notice, notice pay and compensation and the petitioner is entitled to be reinstated in service on account of the very fact that the termination is void ab initio because of non-compliance with Section-25F of the ID Act. The contention that has been raised on behalf of the Respondents is that the provisions of the ID Act are not applicable to the petitioner since the LIC of India is governed by the Life Insurance Corporation Act and Section-48(2C) of the Act have excluded the applicability of the Industrial Disputes Act to the establishment. Even assuming that the Industrial Disputes Act is applicable the present case can be disposed without referring to the other aspects of the case.

12. As stated, the case of the petitioner is that he was terminated without complying with Section-25F of the ID Act. Section-25F states that a workman employed in any industry who had been in service for not less than one year under an employer shall not be retrenched by that employer until the workman has been given 1 month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for period of notice and the workman has been paid at the time of retrenchment compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of six months. Section-25B defines the term "Continuous Service". It states that a workman shall be said to be in continuous service for a period if he is for that period in uninterrupted service. The second clause of Section-25B states that if the workman is not in continuous service within the meaning of the earlier clause he shall be deemed to be in continuous service under an employer (a) for a period of 1 year if the workman during the period of 12 calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than 190 days if he employed below ground in a mine and 240 days in any other case and (b) for a period

of six months, if the workman during the period of six calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than 95 days if he was employed below ground in a mine and 120 days in any other case. Thus, it could be seen from the definition that only if the concerned workman had been in continuous service preceding the date with reference to which calculation is to be made he would be entitled to the benefit of Section-25F of the Act.

13. The case of the petitioner is that he was turned out from service orally on 31.08.2013 and it amounts to retrenchment. To make the service of the petitioner continuous for not less than one year he should have been in service for more than 240 days in the 12 months immediately before he was terminated on 31.08.2013 to claim the benefit of Section-25F.

14. On scanning the available evidence it could be seen that the petitioner was not in continuous service for one year with the Respondent preceding the date of termination. I have already referred to Ext. W1 and Ext. W2, regarding payment of wages for the petitioner and others. These documents are not disputed by the Respondents. Before referring to these documents it is to be kept in mind that though the petitioner has claimed that he was in service until 31.08.2013 the date of termination, the case that is put forth by the Respondents in the Counter Statement is that he was engaged only till 30.04.2010. Ext. W1 shows payments of wages to one Sathish from 24.02.2007 though the number of days worked are not available in this document. However, it could be deciphered from Page-9 onwards of the document that the petitioner had not been working with the Respondents at least after 29.05.2012. Page-9 onwards of the document shows the rejoining date of the workers as 01.10.2012 and also the payments made to the different workers from 06.10.2012. The details of the payment made till 31.08.2013 are available in this document. However, the name of the petitioner does not figure in this. So the contention on behalf of the petitioner that it is for the Respondents to produce the required documents also will not hold good. The documents produced by the petitioner itself is sufficient to show that he was not in continuous services of the Respondents preceding the alleged date of termination. So there is no question of the petitioner having been retrenched in violation of Section-25F of the ID Act as claimed. For this reason itself the petitioner will not be entitled to any relief under Section-25F nor reinstatement as claimed.

In view of my above discussion the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri M. Selva Sathish
For the 2nd Party/1st & 2nd : MW1, Sri E.
Management Sathyanarayanan
MW2, Sri Shrinivas Purushan

On the side of the Petitioner

Ex.No.	Date	Description
Ext.W1	—	Wage Payment Register period from 24.02.2007 to 31.08.2013
Ext. W2	—	Budget Control Register of the Respondent from February 2007 onwards to August, 2010

On the side of Respondent

Ex.No.	Date	Description
Ext.M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Another Vs. D.V. Anil Kumar and Etc. min Civil Appeal No. 953-968 of 2005
Ext.M2	16.07.2014	Judgement of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Ushakumar and Others.
Ext.M3	—	Section 48 (1 & 2) of the Life Insurance Corporation Act, 1956.

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1863.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इन्शोरेन्स कॉरपोरेशन ऑफ इंडिया के प्रबंधन के संबंध में निरीक्षण और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 125/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-09-2015 को प्राप्त हुआ था।

[सं० एल-17012/129/2014-आईआर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1863.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 125/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Life Insurance Corporation of India

and their workman, which was received by the Central Government on 08-09-2015.

[No. L-17012/129/2014-IR(M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 23rd December, 2014

Present : K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 125/2014

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Life Insurance Corporation of India and their workman]

BETWEEN

Sri M. Selva Sathish : 1st Party/Petitioner

AND

The Zonal Manager : 2nd Party/Respondent
LIC of India, Chennai Division-I
102, Anna Salai
Chennai-600002

Appearance:

For the 1st Party/Petitioner : None

For the 2nd Party/Respondent : None

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-17012/29/2014-IR (M) dated 05.12.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Life Insurance Corporation of India in terminating the services of Sri M. Selva Sathish w.e.f. 31.08.2013 is legal and justified? If not, to what relief the workman concerned is entitled to?"

2. The petitioner herein has filed ID 81/2014 before this Tribunal directly challenging the order of termination against him. The petitioner does not want to proceed with this reference in view of this. He has endorsed stating that he is not proceeding with the reference because of the pendency of the other case. Therefore the reference is closed.

An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/ : None

Management

Documents marked:

On the petitioner's side

Ex.No.	Date	Description
		N/A

On the Management's side

Ex.No.	Date	Description
		N/A

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1864.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सेन्ट्रल वेयरहाउसिंग कॉर्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 12/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 08-09-2015 को प्राप्त हुआ था।

[सं एल-42011/4/2007-आईआर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15 the September, 2015

S.O. 1864.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2008) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and their workman, which was received by the Central Government on 08.09.2015.

[No. L-42011/4/2007-IR(M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/12/08

The President,
CWC Workers Union,
C/o Central Warehousing Corporation,
Regional Office, 70, Arera Hills,
Bhopal

....Workman/Union

Versus

Regional Manager,
Central Warehousing Corporation,
Regional Office, 75,
Arera Hills, Opp. Central Shcool-I,
Bhopal. ...Management

AWARD

Passed on this 15th day of July 2015

1. As per letter dated 7-2-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-42011/4/2007-IR(M). The dispute under reference relates to:

"Whether the action of the management of CWC Bhopal in transferring Shri K.L. Chourasia, Sr. Supdt. (General Secretary of CWC Workers Union) from CWC, Raipur to CWC, Balaghat *vide* office order to CWC/RO- BPL/I-Transfer Estt. 12203 dated 21-3-2005 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union. Case of workman is that he is working as junior Supdt. In Central Ware Housing Corporation, Raipur. He was also holding additional charge of Ware House Raipur from 21-8-03. After taking over charge by workman, the profit of ware housing increased in 2005-06 to Rs. 18,78,441, in 2006-07- Rs. 14,92,904/- in 2007-08 Rs. 25,92, 612, in 2008-09 — Rs. 31, 93, 229/- and in 2009-10 Rs. 11,95,239/-. Ist party further submits that for his good performance, he was granted certificate of appreciation by Asstt. General Manager, Accounts Division, District Manager of State Civil Supplies Corporation, Raipur That on 16-10-93, workman refused to accept poor quality and underweight bags of M/s Satyam Rice Industries, its properietor Pradeep Agarwal abused, manhandled and misbehaved with the workman. On 16-10-03, workman complained to the authorities including Regional Manager, CWC, Bhopal but action was not taken on his complaint. The order of his transfer was passed on 21.3.05 by mangement. It is reiterated that the order of transfer is malafide, arbitrary. The order of his transfer is issued with oblique motive. The action of the management is high handed and in colourable exercise of powers. That workman is still continuing to work at Raipur. His representation submitted immediately after order of his transfer was not considered. On such ground, workman prays to set aside order of his transfer dated 21-3-05.

3. 2nd party filed Written Statement opposing claim of the workman. 2nd party submits that it is constituted under Central Warehousing Corporation (Staff) Regulation 1986. The services of its employees are covered by Staff Regulations 1986. That workman was working as Joint Superintendent in Central Ware House, Raipur. He was

transferred from Raipur to Balaghat *vide* order dated 21-3-05. Workman was working at Raipur from 1987 for almost 20 years at one station. He was granted promotions to the post of Ware House assistant Grade II, Grade I and Joint Superintendent. The condition No. IV of his appointment order provides for transfer to any part of India. The transport facility by Rail and bus between Balaghat to Raipur. The allegation of workman are denied.

4. Considering pleadings on record, the point which arise for any consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---|
| “(i) Whether the action of the management of CWC Bhopal transferring Shri K.L.Chourasia, Sr. Supdt.(General Secretary of CWC Workers Union) from CWC, Raipur to CWC, Balaghat <i>vide</i> office order No. CWC/RO-BPL/I-Transfer/ Estt. 12203 dated 21-3-2005 is justified?” | Parties have failed to participate in reference, dispute could not be decided on merit. |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

5. Workman is challenging order of his transfer dated 21-3-05. Workman was transferred from Raipur to Balaghat. Claim of the workman is opposed by management. Workman failed to adduce any evidence in support of his claim. Management also not adduced any evidence. Parties failed to participate in reference proceeding therefore matter could not be decided on evidence of parties. Accordingly I record my finding in Point No. 1.

6. In the result, award is passed as under:—

- (1) The parties failed to participate in reference proceedings, as such dispute could not be decided on merit.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presding Officer

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1865.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स चैन्नई पेट्रोलियम कारपोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचात (संदर्भ संख्या

87/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.09.2015 को प्राप्त हुआ था।

[सं. एल-30011/07/2015-आई आर (एम)]
नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1865—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.87/2015) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Chennai Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 08.09.2015.

[No L-30011/7/2015-IR(M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 3rd August, 2015

Present: K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 87/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Chennai Petroleum Corporation Ltd. and their workman.

BETWEEN

The General Secretary : 1st Party/Petitioner Union
Chennai Petroleum
Employees' Union
CPCL Campus, Manali
Chennai-600068

AND

The General Manager : 2nd Party/Respondent
Chennai Petroleum
Corporation Ltd.
Manali
Chehchai-600068

Appearance:

For the 1st Party/Petitioner Union : Absent

For the 2nd Party/Respondent : Ms.K.Premalatha,
Authorized
Representative

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No L-30011/7/2015-IR(M) 04.06.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the Management of CPCL, Manali, Chennai in respect of sudden reduction of manpower and unilateral decision is justified or not? If not, to what relief the workman is entitled to?

2. On the receipt of the Industrial Dispute this Tribunal has numbered it as ID 87/2015 and issued notices to both sides. The Respondent has entered appearance through Authorized Representative.

3. Even though the petitioner has received notice, he did not enter appearance. In spite of that, the case has been reposted to today for filling claim statement. However, the petitioner failed to appear on this day also.

4. The petitioner seems to be not interested in pursuing the matter. In the absence of any material a decision on merits is not possible. The reference is to be answered against the petitioner, in the circumstances.

The reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/petitioner : None

For the 2nd Party/1st & 2nd Management : None

Documents Marked:

On the petitioner's side & Management's side

Ex.No. Date Description

Nil

नई दिल्ली, 15 सितम्बर, 2015

का०आ० 1866.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स जौहर सेक्यूरिटीज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 38/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं. एल-30012/70/2013-आईआर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1866.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of M/s. Johar Securities and their workman, which was received by the Central Government on 08.09.2015.

[No. L-30012/70/2013-IR (M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Friday, the 31st July, 2015

Present : K.P. PRASANNA KUMARI,

Presiding Officer

Industrial Dispute No. 38/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Johar Securities and their workman.)

BETWEEN

Sri M. Paneerselvam : 1st Party/Petitioner
(International Human
Rights Organization,
Near Jothi Vidyalyay
School, Karuppur Post
Omalar District
Salem-636012

AND

1. M/s Johar Securities : 2nd Party/1st Respondent
434, Jonapur, Mehrauli
Mandir Road
Lakshman Farm House
New Delhi-110047
2. Sri Venkatraman : 2nd Party/2nd Respondent
Ex-Army Sub B-Off
Door No. 5/69, Butt
Road, Butt Lane
St. Thomas Mount
Chennai-600 016
3. Ex-Army, Maharaju : 2nd Party/3rd Respondent
Security Supervisor
Indian Oil Corporation
Narayanppanchavadi
R.S. Post, Sangagiri Taluk,
Salem Distt.
Salem
4. Sri S. Kumar : 2nd Party/4th Respondent
Sr. Depot Manager
Indian Oil Corporation
Narayanappanchavadi
R.S. Post, Sangagiri Taluk
Salem District

Appearance:

For the 1st Party/Petitioner : M/s. J. Saravanakumar
For the 2nd Party/1st Respondent : Set Ex-parte
For the 2nd Party/2nd Respondent : Sri G. Thangavel,
Advocate
For the 2nd Party/3rd Respondent : Sri G. Thangavel,
Advocate
For the 2nd Party/4th Respondent : Set Ex-parte

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-30012/70/2013-IR (M) dated 01.04.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the management of Johar Securities regarding termination of services of the petitioner M. Paneerselvam *w.e.f.* 24.06.2012 is justified or not? If not, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 38/2014 and issued notice to both sides. The petitioner and Respondents 2 and 3 have entered appearance through counsel on receipt of notice. The petitioner has filed Claim Statement. The 1st and 4th Respondents remained ex-parte. The Second Respondent alone has filed Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is a retired Army staff. In the year 2001 he has joined as Security in a LPG Gas Bottling Plant at Karuppur, Salem District. The petitioner accepted the proposal of the 1st Respondent and had agreed to work through them. From the year 2003 till the date of his retrenchment by the respondents on 24.06.2012 the petitioner had been working as Security Staff at Indian Oil Corporation (IOC) in Sankari Taluk. The work allotted to him was to check the lorries and tankers that enter the IOC premises and to intimate the same to the concerned employee deployed to facilitate the loading of oil. On 23.06.2012 the 3rd Respondent intimated the petitioner not to come for work from the next day. He informed that he had acted as per the instructions of the 4th Respondent and Administrative officers of the 1st Respondent. The petitioner had sent representations to different Officers of IOC to check the abuse of power by illegal retrenchment. The officers did not take any action. The petitioner had been removed from service without any reason. The dispute is raised accordingly. The petitioner is entitled to be reinstated in service. The Respondent shall be directed to reinstate the petitioner in service with back wages from the date of retrenchment. They shall also be directed to pay a sum of Rs. 2,00,000/- to the petitioner as compensation for illegal retrenchment.

4. The 2nd Respondent has filed Counter Statement contending as below:

The petitioner intends to have the relief of reinstatement from the 1st Respondent. The 1st Respondent performs security of Sankari Terminal of IOC Ltd. from 01.04.2010 to 31.05.2014. The 1st Respondent establishment does not exist as on 31.05.2015. Sardar Singh who had been representing the 1st Respondent is not alive. The petitioner had been working elsewhere from 24.06.2012. This fact is suppressed by him. As the 1st Respondent establishment is not functioning now the petitioner is not entitled to any relief from the 1st Respondent.

5. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W18.

6. The points for consideration are:

- (i) Whether the action of the 1st Respondent in terminating the service of the petitioner is justified?
- (ii) What is the relief, if any to which the petitioner is entitled?

The Points

7. The petitioner, a retired Army staff had been working as Security at LPG Gas Bottling Plant of the IOC at Karuppur, Salem District through the 1st Respondent. According to the petitioner, he was retrenched from service from 24.06.2012 illegally without any justification. He is claiming the relief of reinstatement against the Respondents.

8. Though the petitioner had made Respondents 3 and 4, Officers of the IOC and also the 2nd Respondent whose status and position in the whole affairs is not clear as parties, it is very much clear that the relief is claimed only against 1st Respondent who had engaged him as Security for the bottling plant at IOC. The 1st Respondent itself did not come forward and defend the case. Only the 2nd Respondent has filed a Counter Statement. Though the Second Respondent is defending the 1st Respondent, the role of the 2nd Respondent itself in the case is not made clear even in the Counter Statement.

9. The petitioner has filed affidavit in lieu of examination and has been cross-examined on behalf of the 2nd Respondent. In the affidavit the petitioner has reiterated his case that he had been working as security for the IOC through the 1st Respondent. Ext. W1, the document showing ESI contribution would show that the petitioner was employed by the 1st Respondent. Ext. W6 the Identity Card issued by the IOC Ltd. also shows that the petitioner was working at Sankari Depot of the Corporation and he was engaged through the 1st Respondent whose name is given as Contractor in the Identity Card. The only contesting Respondent, the 2nd Respondent has not disputed the case that the petitioner had been working

through the 1st Respondent. So it is very much clear that the 1st Respondent had engaged the petitioner and he has been working as Security for the LPG bottling plant of IOC.

10. The only contesting Respondent did not adduce any evidence either oral or documentary. In any case the only contention raised by the 2nd Respondent is that the person who was representing the 1st Respondent is not alive and that the Contractor of the 1st Respondent with IOC subsisted till 31.05.2014 only. Even regarding the period of contract there is no evidence. So the case of the petitioner that he was employed by the 1st Respondent and was terminated illegally and is entitled to be reinstated is to be accepted.

11. Accordingly an award is passed as below:

The First Respondent is directed to reinstate the petitioner in service within a month of the publication of the award with 50% back wages and other attendant benefits.

The reference is answered accordingly.

K.P. RASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri M. Paneerselvam
 For the 2nd Party/1st Respondent : None
 For the 2nd Party/2nd Respondent : None
 For the 2nd Party/3rd Respondent : None
 For the 2nd Party/4th Respondent : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	-	EPF Contribution for the year 2010-2011 and 2011-2012.
Ex.W2	30.6.2012	Representation to the Director, IOC New Delhi.
Ex.W3	30.6.2012	Representation to the Executive Director, IOC Chennai.
Ex.W4	30.6.2012	Representation to the Manager (Vigilance), Vigilance Department, IOC, Chennai.
Ex.W5	04.07.2012	Acknowledgement Cards
Ex.W6	—	Identification Card
Ex.W7	14.11.2012	Petition filed before Assistant Labour Commissioner (Central), Chennai.

Ex.W8	18.03.2013	Reply letter from 1st Respondent.
Ex.W9	10.04.2013	Notice from Assistant Labour Commissioner (Central), Chennai.
Ex.W10	18.04.2013	Reply by 4th Respondent.
Ex.W11	19.04.2013	Representation of Claimant.
Ex.W12	02.05.2013	Representation of Claimant.
Ex.W13	—	Reply by 3rd Respondent.
Ex.W14	16.05.2013	Notice of Assistant Commissioner (Central), Chennai.
Ex.W15	29.05.2013	Reply of Claimant.
Ex.W16	01.06.2013	Statement of S. Sankaranarayanan
Ex.W17	05.12.2013	Reply of Failure of Conciliation.
Ex.W18	01.04.2014	Order of reference of Hon'ble Tribunal.

On the Management's side

Ex.No.	Date	Description
	Nil	
	नई दिल्ली, 15 सितम्बर, 2015	

कांआ 1867.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स विशाल टेस्टिंग सर्विसेज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 112/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 08.09.2015 को प्राप्त हुआ था।

[सं एल-30011/22/2015-आई आर (एम)]
नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1867.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 112/2015) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Vishal Testing Services and their workman, which was received by the Central Government on 08.09.2015.

[No. L-30011/22/2015-IR (M)]
NAVEEN KAPOOR, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 26th August, 2015

Present: K.P. Prasanna Kumari,
Presiding Officer

Industrial Dispute No. 112/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of M/s. Vishal Testing Services, Chennai and their workman)

Between

Sri R. Arumugam 1st Party/Petitioner Union
General Secretary, HMS Union
Libe Plant, Indian Oil Co. Tondiarpet
Chennai-600081

And

The Proprietor 2nd Party/Respondent
M/s Vishal Testing & Service,
Engineers Consultant &
Contractors, 1/623, PGN Apartments
Muttukadu Road, Kottivakkam
Chennai-600041

Appearance:

For the 1st Party/Petitioner : Absent
For the 2nd Party/Management : Absent

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-30011/22/2015-IR (M) dated 14.07.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the management of M/s. Vishal Testing Services, Chennai regarding the details of absenteeism and the amount deducted for the days of absenteeism from the bonus amount given to the workers is justified or not? If not, to what relief the workman are entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 112/2015 and issued notices to both sides.

3. Initially when notice was issued to the petitioner, he has refused to claim the notice. When the matter had come up for hearing on 04.08.2015, the petitioner had not

appeared on this date also. The Respondent also was absent, though served.

5. In spite of refusal by the petitioner to claim the notice, notice has been sent to him again. This time the petitioner has received the notice. In spite of that he had not entered appearance on this second hearing date also. The petitioner seems to be not interested in proceeding with the case. So the matter is only to be disposed in the absence of the petitioner.

In the circumstances mentioned above, the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the Petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 15 सितम्बर, 2015

का.आ. 1868.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स लाईफ इश्योरेन्स कार्पोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 106/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं.एल-17012/122/2014-आई आर(एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1868.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 106/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workman, which was received by the Central Government on 08/09/2015.

[No. L-17012/122/2014-IR(M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 27th August, 2015

PRESENT: K. P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 106/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act., 1947 (14 of 1947), between the Management of LIC of India and their workman)

BETWEEN

Sri S. Jayaseelan : 1st Party/Ist Petitioner

AND

The Zonal Manager
LIC of India, Chennai Division-1
102, Anna Salai
Chennai-600002 : 2nd Party/Respondent

Appearance:

For the 1st Party/Petitioner M/s Balan Haridas,
Advocates

For the 2nd Party/Respondent Shri C. K. Chandrasekhar,
Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its order No. L-17012/122/2014-IR(M) dated 28.10.2014 referred the following Industrial Dispute to the Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Life Insurance Corporation of India in terminating the services of Sri S. Jayaseelan w.e.f. 31.08.2013 is legal and justified? If not, the what relief the workman concerned is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 106/2014 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively. The Petitioner has filed rejoinder in reply to the Counter Statement.

3. The petitioner has filed Claim Statement contending as below.

The petitioner has passed 10th standard. The petitioner was engaged in the Office of the Second Respondent as

Office Assistant/Peon. He had joined in April 2011 and had been continuously working. He had been doing the work of filing papers, cleaning the office and all sundry work entrusted to him in the office of the Second Respondent. Initially he was paid @ Rs. 160/- per day and this was revised as Rs. 250/- and later as Rs. 360/- per day. He had been working continuously in this manner. The petitioner was paid wages every week in cash. However, voucher was raised under the head "Upkeep and Cleaning Material". This was done to circumvent law. The petitioner had worked for more than 480 days continuously during the period of 24 calendar months. So the petitioner is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981. The work discharged by the petitioner is perennial in nature. He had worked for more than 240 days continuously during the period of 12 calendar months. He had been terminated orally on 31.08.2013. The petitioner was not issued any notice, notice pay or compensation before termination. Termination of the service of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is *void ab initio*. The Respondent now cannot say that appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Any how the employment of the petitioner is protected by the provision of ID Act and the same will override the so-called instructions. An order may be passed holding that termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity and all other attendant benefits.

4. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie charges on various dates from November 2005 to February 2009, from May 2009 to September 2009 and from November 2009 to August 2013. The charges were paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and he was paid for the same. It is denied that the petitioner worked against the post for 480 days in 24 calendar months to claim permanency. Casual engagement on need based works cannot confer permanency. And appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme

were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID Act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need basis would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provision of the ID Act are not applicable to the petitioners with reference to matter covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

6. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext W1 to Ext. W344 and Ext. M1 to Ext. M3.

7. The points for consideration are

(i) Whether termination of the petitioner by the Respondents from service is legal and justified?

(ii) What, if any, is the relief to which the petitioner is entitled?

The Points

8. The petitioner is seeking to set aside termination of his service by the Respondents and to direct them to reinstate him with backwages, continuity of service and other benefits.

9. According to the petitioner he had joined in the office of the Second Respondent as Officer Assistant/Peon in April 2011 and had been continuously working in the said office until 31.08.2013 on which date he was orally terminated without any justification. According to him he was initially paid wages @ Rs. 160/- per day. This was revised to Rs. 250/- per day and again to Rs. 360/- per day. He used to be paid on weekly basis. According to him voucher was raised under the head "Upkeep and Cleaning Material" only to circumvent the law. He was terminated illegally, without any justification. He has claimed that he had worked for more than 480 days continuously within a period of 24 calendar months and is entitled to be made permanent under Section -3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act. He has also claimed that his termination was in violation of Section-25F of the Industrial Disputes Act.

10. The Respondents have admitted that the petitioner was paid coolie charges on various dates from November 2005 to February 2009 and from May 2009 to September 2009 and from November 2009 to August 2013. However, according to the Respondents, the engagement was not as Peon or Officer Assistant. It was only to be certain petty works like cleaning, dusting and upkeep works. The Respondents have denied the case that the engagement was continuous and employment was regular. There was no question of payment on Sunday and Holiday as the engagement was on daily wages basis only, it is stated.

11. The petitioner has filed affidavit in lieu of Chief Examination and also produced Ext. W1 to Ext. W344 to substantiate the case. The petitioner has stated in his proof affidavit that his engagement was continuous. Ext. W1 to Ext. W343 are the payment vouchers which are not disputed. These vouchers are of the period starting from 03.12.2011. However, it could be seen from the admission of the Respondents itself that the petitioner used to be engaged even from the year 2005. On going through the payment vouchers it could be seen that the petitioner used to be paid weekly on daily wage basis. A perusal of the vouchers would reveal that the engagement was without much of a gap. Certainly, he had worked for more than 240 days preceding the 12 months of the date on which he last worked. Thus it could be seen that the engagement was of a continuous nature.

12. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning, dusting and other upkeep works. This is what is stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the works that were usually done by the Sub-Staff. MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext. W1 to Ext. W343 also would show that almost on all occasions the petitioner was paid once in a week calculated on wage fixed per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on sanctioned post. He has not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for any regularization except for the claim of permanency under Section-3 of the Tamil Nadu Act. So it is clear that the petitioner was working on daily wages and not on sanctioned post.

13. Before dealing with the others contentions of the petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states that notwithstanding anything contained in any law in force every workman who is in continuous service for a period of 480 days in a period of

24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be in continuous service is given in the next sub-section of Section-3. On going through Ext. W1 to Ext. W343 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

14. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in Elayaperumal VS. State Bank of India (Writ Appeal No. 1372 of 2006 decided on 08.01.2007). The Hon'ble High Court has held in this case that the provisions of the Permanent Status Act will apply to Banks including nationalized banks. Another decision referred to by the counsel for the petitioner is Hindustan Petroleum Corporation Ltd. VS Presiding Officer, CGIT, Chennai reported in 2008 4 CTC 819 where it was held that the Act is applicable to Hindustan Petroleum Corporation Ltd. Another decision relied upon is Lakshmi VS. The Chief Engineer, TNEB reported in 2012 3LLN 681 wherein it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondents that second decision referred to has been taken to the Apex court and has been compromised. In the last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well applies to the same. The operation of the other decision referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed, it could not be acted upon and there is no question of the principle laid down in the decision being applied. So the contention of the petitioner that he is entitled to the benefit of Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

15. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(k) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondents that the termination of the petitioner was done without complying with Section-25F of the ID Act. so there is no necessity to refer to various decisions relied upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that the termination in violation of Section-25F of the Act will be *void ab initio*.

16. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as

per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext. M1. One of the appellants in the several civil appeals decided by Ext. M1 order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement or permanency. While this case was pending, the Corporation had framed a scheme as below:

One time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into the LIC of India would be considered. For this purpose LIC of India would hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and/or not successful shall cease to be in employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees in terms of the scheme.

17. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were turned out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

18. The counsel for the petitioner has been mainly relying upon the decision of the Apex Court in Tamil Nadu Terminated Full Time Temporary LIC Employees Association VS. LIC of India and Others in Civil Appeal No. 6951/2009 and other appeals in this respect. In this the Apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards existing since those awards were not set aside even after the compromise. It has also been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

19. The counsel for the Respondents has pointed out that Civil Appeal Nos. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext. M1 cases, since the issues involved in those cases were different from the case considered in Ext. M1 order. On going through Ext. M1 it could be seen that such a representation was made and it is accordingly those appeals were de-tagged. The workmen involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into the Corporation with some of the Unions while a case was pending. In Civil Appeal Nos. 6951/2009 and other cases it has been held that the direction given to the Corporation as per the Award regarding other workmen who were parties to the case and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for Respondents that it is this background the decision has been rendered.

20. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the Act is not applicable to the workers of the Corporation. Reference was made to the decision in *M. Venugopal VS. The Divisional Manager, LIC of India* reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-Section 2(C) of Section-48 which has been incorporated in LIC Act by amendment, and other provisions. Section-48 of the Act provides that the Central Government may make rules to carry out the purpose of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause-2(A). Clause-2C of the same section states that the provisions of Clause (cc) and Sub-Section 2B and any rules made there under shall have effect notwithstanding any judgment, decree or order of the any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in *Venugopal's* case referred to above that the wisdom of the legislature in extending the protection of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Courts unless any such step is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 the employees of the Corporation shall not be entitled to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in

accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision A.V. Nachane VS. Union of India reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section-48 (2C) read with Section-48 (2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex Court. The counsel has also referred to the decision of the Apex court in LIC of India VS. Asha Ramchand Ambedkar reported in 1994 2 SCC 718 where it was held that the instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation had issued several instructions on the basis of which the petitioner and such others had ceased to be in employment. It has been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext. M1 were pending and those were treated separately and decided separately in the background referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions of the ID Act are applicable and need not be referred to.

21. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section-25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred to the decision of the High Court of Kerala in LIC of India VS Usha Kumari and Others in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found inapplicable to the employees of the Life Insurance Corporation and has held that the

provisions contained in Section-48(2C) of the LIC Act would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section-25F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. This being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the consequence. The petitioner had not completed 5 years as daily wage in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner	WW1, Sri S. Jayaseelan
For the 2nd Party/Management	MW1, Sri E. Sathyanarayanan
	MW2, Sri S Shrinivas Purushan

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ext.W1	03.12.2011	Payment Vouchers
Ext.W2	03.12.2011	Payment Vouchers
Ext.W3	10.12.2011	Payment Vouchers
Ext.W4	10.12.2011	Payment Vouchers
Ext.W5	17.12.2011	Payment Vouchers
Ext.W6	17.12.2011	Payment Vouchers
Ext.W7	24.12.2011	Payment Vouchers
Ext.W8	24.12.2011	Payment Vouchers
Ext.W9	12.01.2012	Payment Vouchers
Ext.W10	12.01.2012	Payment Vouchers
Ext.W11	21.01.2012	Payment Vouchers
Ext.W12	21.01.2012	Payment Vouchers

Ext.W13	28.01.2012	Payment Vouchers	Ext.W50	12.04.2012	Payment Vouchers
Ext.W14	28.01.2012	Payment Vouchers	Ext.W51	21.04.2012	Payment Vouchers
Ext.W15	04.02.2012	Payment Vouchers	Ext.W52	21.04.2012	Payment Vouchers
Ext.W16	04.02.2012	Payment Vouchers	Ext.W53	21.04.2012	Payment Vouchers
Ext.W17	11.02.2012	Payment Vouchers	Ext.W54	21.04.2012	Payment Vouchers
Ext.W18	11.02.2012	Payment Vouchers	Ext.W55	28.04.2012	Payment Vouchers
Ext.W19	25.02.2012	Payment Vouchers	Ext.W56	28.04.2012	Payment Vouchers
Ext.W20	25.02.2012	Payment Vouchers	Ext.W57	28.04.2012	Payment Vouchers
Ext.W21	03.03.2012	Payment Vouchers	Ext.W58	28.04.2012	Payment Vouchers
Ext.W22	03.03.2012	Payment Vouchers	Ext.W59	07.01.2012	Payment Vouchers
Ext.W23	03.03.2012	Payment Vouchers	Ext.W60	07.01.2012	Payment Vouchers
Ext.W24	01.03.2012	Payment Vouchers	Ext.W61	05.05.2012	Payment Vouchers
Ext.W25	—	Payment Vouchers	Ext.W62	05.05.2012	Payment Vouchers
Ext.W26	—	Payment Vouchers	Ext.W63	05.05.2012	Payment Vouchers
Ext.W27	10.03.2012	Payment Vouchers	Ext.W64	05.05.2012	Payment Vouchers
Ext.W28	10.03.2012	Payment Vouchers	Ext.W65	05.05.2012	Payment Vouchers
Ext.W29	17.03.2012	Payment Vouchers	Ext.W66	12.05.2012	Payment Vouchers
Ext.W30	17.03.2012	Payment Vouchers	Ext.W67	12.05.2012	Payment Vouchers
Ext.W31	17.03.2012	Payment Vouchers	Ext.W68	12.02.2015	Payment Vouchers
Ext.W32	17.03.2012	Payment Vouchers	Ext.W69	17.05.2012	Payment Vouchers
Ext.W33	24.03.2012	Payment Vouchers	Ext.W70	17.05.2012	Payment Vouchers
Ext.W34	24.03.2012	Payment Vouchers	Ext.W71	17.05.2012	Payment Vouchers
Ext.W35	31.03.2012	Payment Vouchers	Ext.W72	17.05.2012	Payment Vouchers
Ext.W36	31.03.2012	Payment Vouchers	Ext.W73	28.05.2012	Payment Vouchers
Ext.W37	31.03.2012	Payment Vouchers	Ext.W74	28.05.2012	Payment Vouchers
Ext.W38	31.03.2012	Payment Vouchers	Ext.W75	02.06.2012	Payment Vouchers
Ext.W39	31.03.2012	Payment Vouchers	Ext.W76	02.06.2012	Payment Vouchers
Ext.W40	31.03.2012	Payment Vouchers	Ext.W77	02.06.2012	Payment Vouchers
Ext.W41	07.04.2012	Payment Vouchers	Ext.W78	02.06.2012	Payment Vouchers
Ext.W42	07.04.2012	Payment Vouchers	Ext.W79	09.06.2012	Payment Vouchers
Ext.W43	02.04.2012	Payment Vouchers	Ext.W80	09.06.2012	Payment Vouchers
Ext.W44	02.04.2012	Payment Vouchers	Ext.W81	09.06.2012	Payment Vouchers
Ext.W45	07.04.2012	Payment Vouchers	Ext.W82	09.06.2012	Payment Vouchers
Ext.W46	07.04.2012	Payment Vouchers	Ext.W83	16.06.2012	Payment Vouchers
Ext.W47	12.04.2012	Payment Vouchers	Ext.W84	16.06.2012	Payment Vouchers
Ext.W48	12.04.2012	Payment Vouchers	Ext.W85	16.06.2012	Payment Vouchers
Ext.W49	12.04.2012	Payment Vouchers	Ext.W86	16.06.2012	Payment Vouchers

Ext.W87	23.06.2012	Payment Vouchers	Ext.W124	—	Payment Vouchers
Ext.W88	23.06.2012	Payment Vouchers	Ext.W125	—	Payment Vouchers
Ext.W89	23.06.2012	Payment Vouchers	Ext.W126	25.08.2012	Payment Vouchers
Ext.W90	23.06.2012	Payment Vouchers	Ext.W127	27.08.2012	Payment Vouchers
Ext.W91	—	Payment Vouchers	Ext.W128	25.08.2012	Payment Vouchers
Ext.W92	29.06.2012	Payment Vouchers	Ext.W129	01.09.2012	Payment Vouchers
Ext.W93	30.06.2012	Payment Vouchers	Ext.W130	01.09.2012	Payment Vouchers
Ext.W94	30.06.2012	Payment Vouchers	Ext.W131	01.09.2012	Payment Vouchers
Ext.W95	30.06.2012	Payment Vouchers	Ext.W132	01.09.2012	Payment Vouchers
Ext.W96	30.06.2012	Payment Vouchers	Ext.W133	08.09.2012	Payment Vouchers
Ext.W97	07.07.2012	Payment Vouchers	Ext.W134	08.09.2012	Payment Vouchers
Ext.W98	07.07.2012	Payment Vouchers	Ext.W135	08.09.2012	Payment Vouchers
Ext.W99	07.07.2012	Payment Vouchers	Ext.W136	08.09.2012	Payment Vouchers
Ext.W100	07.07.2012	Payment Vouchers	Ext.W137	15.09.2012	Payment Vouchers
Ext.W101	14.07.2012	Payment Vouchers	Ext.W138	15.09.2012	Payment Vouchers
Ext.W102	14.07.2012	Payment Vouchers	Ext.W139	15.09.2012	Payment Vouchers
Ext.W103	14.07.2012	Payment Vouchers	Ext.W140	15.09.2012	Payment Vouchers
Ext.W104	14.07.2012	Payment Vouchers	Ext.W141	22.09.2012	Payment Vouchers
Ext.W105	21.07.2012	Payment Vouchers	Ext.W142	22.09.2012	Payment Vouchers
Ext.W106	21.07.2012	Payment Vouchers	Ext.W143	22.09.2012	Payment Vouchers
Ext.W107	21.07.2012	Payment Vouchers	Ext.W144	22.09.2012	Payment Vouchers
Ext.W108	21.07.2012	Payment Vouchers	Ext.W145	29.09.2012	Payment Vouchers
Ext.W109	28.07.2012	Payment Vouchers	Ext.W146	29.09.2012	Payment Vouchers
Ext.W110	28.07.2012	Payment Vouchers	Ext.W147	29.09.2012	Payment Vouchers
Ext.W111	28.07.2012	Payment Vouchers	Ext.W148	29.09.2012	Payment Vouchers
Ext.W112	28.07.2012	Payment Vouchers	Ext.W149	05.10.2012	Payment Vouchers
Ext.W113	04.08.2012	Payment Vouchers	Ext.W150	05.10.2012	Payment Vouchers
Ext.W114	04.08.2012	Payment Vouchers	Ext.W151	05.10.2012	Payment Vouchers
Ext.W115	04.08.2012	Payment Vouchers	Ext.W152	05.10.2012	Payment Vouchers
Ext.W116	04.08.2012	Payment Vouchers	Ext.W153	13.10.2012	Payment Vouchers
Ext.W117	11.08.2012	Payment Vouchers	Ext.W154	13.10.2012	Payment Vouchers
Ext.W118	11.08.2012	Payment Vouchers	Ext.W155	13.10.2012	Payment Vouchers
Ext.W119	11.08.2012	Payment Vouchers	Ext.W156	13.10.2012	Payment Vouchers
Ext.W120	11.08.2012	Payment Vouchers	Ext.W157	20.10.2012	Payment Vouchers
Ext.W121	18.08.2012	Payment Vouchers	Ext.W158	20.10.2012	Payment Vouchers
Ext.W122	18.08.2012	Payment Vouchers	Ext.W159	26.10.2012	Payment Vouchers
Ext.W123	18.08.2012	Payment Vouchers	Ext.W160	26.10.2012	Payment Vouchers

Ext.W161	26.10.2012	Payment Vouchers	Ext.W198	29.12.2012	Payment Vouchers
Ext.W162	26.10.2012	Payment Vouchers	Ext.W199	29.12.2012	Payment Vouchers
Ext.W163	01.11.2012	Payment Vouchers	Ext.W200	05.01.2013	Payment Vouchers
Ext.W164	01.11.2012	Payment Vouchers	Ext.W201	05.01.2013	Payment Vouchers
Ext.W165	03.11.2012	Payment Vouchers	Ext.W202	12.01.2013	Payment Vouchers
Ext.W166	03.11.2012	Payment Vouchers	Ext.W203	12.01.2013	Payment Vouchers
Ext.W167	03.11.2012	Payment Vouchers	Ext.W204	19.01.2013	Payment Vouchers
Ext.W168	11.11.2012	Payment Vouchers	Ext.W205	19.01.2013	Payment Vouchers
Ext.W169	11.11.2012	Payment Vouchers	Ext.W206	24.01.2013	Payment Vouchers
Ext.W170	11.11.2012	Payment Vouchers	Ext.W207	24.01.2013	Payment Vouchers
Ext.W171	10.11.2012	Payment Vouchers	Ext.W208	02.02.2013	Payment Vouchers
Ext.W172	10.11.2012	Payment Vouchers	Ext.W209	02.02.2013	Payment Vouchers
Ext.W173	17.11.2012	Payment Vouchers	Ext.W210	05.02.2013	Payment Vouchers
Ext.W174	17.11.2012	Payment Vouchers	Ext.W211	05.02.2013	Payment Vouchers
Ext.W175	17.11.2012	Payment Vouchers	Ext.W212	05.02.2013	Payment Vouchers
Ext.W176	17.11.2012	Payment Vouchers	Ext.W213	05.02.2013	Payment Vouchers
Ext.W177	21.11.2012	Payment Vouchers	Ext.W214	05.02.2013	Payment Vouchers
Ext.W178	21.11.2012	Payment Vouchers	Ext.W215	05.02.2013	Payment Vouchers
Ext.W179	21.11.2012	Payment Vouchers	Ext.W216	05.02.2013	Payment Vouchers
Ext.W180	21.11.2012	Payment Vouchers	Ext.W217	05.02.2013	Payment Vouchers
Ext.W181	24.12.2012	Payment Vouchers	Ext.W218	05.02.2013	Payment Vouchers
Ext.W182	24.12.2012	Payment Vouchers	Ext.W219	05.02.2013	Payment Vouchers
Ext.W183	24.12.2012	Payment Vouchers	Ext.W220	05.02.2013	Payment Vouchers
Ext.W184	01.12.2012	Payment Vouchers	Ext.W221	05.02.2013	Payment Vouchers
Ext.W185	01.12.2012	Payment Vouchers	Ext.W222	05.02.2013	Payment Vouchers
Ext.W186	01.12.2012	Payment Vouchers	Ext.W223	05.02.2013	Payment Vouchers
Ext.W187	01.12.2012	Payment Vouchers	Ext.W224	09.02.2013	Payment Vouchers
Ext.W188	08.12.2012	Payment Vouchers	Ext.W225	09.02.2013	Payment Vouchers
Ext.W189	08.12.2012	Payment Vouchers	Ext.W226	09.02.2013	Payment Vouchers
Ext.W190	08.12.2012	Payment Vouchers	Ext.W227	08.02.2013	Payment Vouchers
Ext.W191	08.12.2012	Payment Vouchers	Ext.W228	16.02.2013	Payment Vouchers
Ext.W192	15.12.2012	Payment Vouchers	Ext.W229	16.02.2013	Payment Vouchers
Ext.W193	15.12.2012	Payment Vouchers	Ext.W230	19.02.2013	Payment Vouchers
Ext.W194	22.12.2012	Payment Vouchers	Ext.W231	16.02.2013	Payment Vouchers
Ext.W195	22.12.2012	Payment Vouchers	Ext.W232	23.02.2013	Payment Vouchers
Ext.W196	22.12.2012	Payment Vouchers	Ext.W233	23.02.2013	Payment Vouchers
Ext.W197	22.12.2012	Payment Vouchers	Ext.W234	25.02.2013	Payment Vouchers

Ext.W235	25.02.2013	Payment Vouchers	Ext.W271	20.04.2013	Payment Vouchers
Ext.W236	27.02.2013	Payment Vouchers	Ext.W272	27.04.2013	Payment Vouchers
Ext.W237	27.02.2013	Payment Vouchers	Ext.W273	27.04.2013	Payment Vouchers
Ext.W238	02.03.2013	Payment Vouchers	Ext.W274	04.05.2013	Payment Vouchers
Ext.W239	02.03.2013	Payment Vouchers	Ext.W275	04.05.2013	Payment Vouchers
Ext.W240	04.03.2013	Payment Vouchers	Ext.W276	11.05.2013	Payment Vouchers
Ext.W241	04.03.2013	Payment Vouchers	Ext.W277	11.05.2013	Payment Vouchers
Ext.W242	09.03.2013	Payment Vouchers	Ext.W278	23.05.2013	Payment Vouchers
Ext.W243	09.03.2013	Payment Vouchers	Ext.W279	23.05.2013	Payment Vouchers
Ext.W244	16.03.2013	Payment Vouchers	Ext.W280	18.05.2013	Payment Vouchers
Ext.W245	16.03.2013	Payment Vouchers	Ext.W281	18.05.2013	Payment Vouchers
Ext.W246	16.03.2013	Payment Vouchers	Ext.W282	27.05.2013	Payment Vouchers
Ext.W247	16.03.2013	Payment Vouchers	Ext.W283	28.05.2013	Payment Vouchers
Ext.W248	23.03.2013	Payment Vouchers	Ext.W284	28.05.2013	Payment Vouchers
Ext.W249	23.03.2013	Payment Vouchers	Ext.W285	01.06.2013	Payment Vouchers
Ext.W250	23.03.2013	Payment Vouchers	Ext.W286	01.06.2013	Payment Vouchers
Ext.W251	23.03.2013	Payment Vouchers	Ext.W287	08.06.2013	Payment Vouchers
Ext.W252	30.03.2013	Payment Vouchers	Ext.W288	08.06.2013	Payment Vouchers
Ext.W253	30.03.2013	Payment Vouchers	Ext.W289	11.06.2013	Payment Vouchers
Ext.W254	06.04.2013	Payment Vouchers	Ext.W290	11.06.2013	Payment Vouchers
Ext.W255	06.04.2013	Payment Vouchers	Ext.W291	11.06.2013	Payment Vouchers
Ext.W256	13.04.2013	Payment Vouchers	Ext.W292	11.06.2013	Payment Vouchers
Ext.W257	13.04.2013	Payment Vouchers	Ext.W293	11.06.2013	Payment Vouchers
Ext.W258	15.04.2013	Payment Vouchers	Ext.W294	11.06.2013	Payment Vouchers
Ext.W259	16.04.2013	Payment Vouchers	Ext.W295	15.06.2013	Payment Vouchers
Ext.W260	16.04.2013	Payment Vouchers	Ext.W296	15.06.2013	Payment Vouchers
Ext.W261	10.04.2013	Payment Vouchers	Ext.W297	18.06.2013	Payment Vouchers
Ext.W262	15.04.2013	Payment Vouchers	Ext.W298	18.06.2013	Payment Vouchers
Ext.W263	15.04.2013	Payment Vouchers	Ext.W299	22.06.2013	Payment Vouchers
Ext.W264	16.04.2013	Payment Vouchers	Ext.W300	22.06.2013	Payment Vouchers
Ext.W265	16.04.2013	Payment Vouchers	Ext.W301	29.06.2013	Payment Vouchers
Ext.W266	20.04.2013	Payment Vouchers	Ext.W302	29.06.2013	Payment Vouchers
Ext.W267	20.04.2013	Payment Vouchers	Ext.W303	06.07.2013	Payment Vouchers
Ext.W268	20.04.2013	Payment Vouchers	Ext.W304	06.07.2013	Payment Vouchers
Ext.W269	20.04.2013	Payment Vouchers	Ext.W305	06.07.2013	Payment Vouchers
Ext.W270	20.04.2013	Payment Vouchers	Ext.W306	06.07.2013	Payment Vouchers
			Ext.W307	11.07.2013	Payment Vouchers

Ext.W308	11.07.2013	Payment Vouchers	On the Management's side:		
Ext.W309	13.07.2013	Payment Vouchers	Ex.No.	Date	Description
Ext.W310	13.07.2013	Payment Vouchers	Ext.M1	18.01.201	Hon'ble Supreme Court Order in LIC of India & Another vs. D.V. Anil Kumar & Others — C.A. No. 953-968 of 2005
Ext.W311	13.07.2013	Payment Vouchers			
Ext.W312	13.07.2013	Payment Vouchers			
Ext.W313	20.07.2013	Payment Vouchers	Ext.M2	16.07.2014	Judgement of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Usha Kumari & Others
Ext.W314	20.07.2013	Payment Vouchers			
Ext.W315	20.07.2013	Payment Vouchers			
Ext.W316	20.07.2013	Payment Vouchers			
Ext.W317	27.07.2013	Payment Vouchers			
Ext.W318	27.07.2013	Payment Vouchers	Ext.M3	-	Sec.48 (1&2) of the Life Insurance Corporation Act. 1956.
Ext.W319	27.07.2013	Payment Vouchers			
Ext.W320	27.07.2013	Payment Vouchers			
Ext.W321	29.07.2013	Payment Vouchers			नई दिल्ली, 15 सितम्बर, 2015
Ext.W322	29.07.2013	Payment Vouchers			का०आ० 1869.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स लाईफ इश्योरेन्स कापॉरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 82/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।
Ext.W323	03.08.2013	Payment Vouchers			
Ext.W324	03.08.2013	Payment Vouchers			
Ext.W325	03.08.2013	Payment Vouchers			
Ext.W326	03.08.2013	Payment Vouchers			
Ext.W327	03.08.2013	Payment Vouchers			
Ext.W328	03.08.2013	Payment Vouchers			[सं० एल-17025/4/2015-आईआर (एम)]
Ext.W329	03.08.2013	Payment Vouchers			नवीन कपूर, अवर सचिव
Ext.W330	08.08.2013	Payment Vouchers			New Delhi, the 15th September, 2015
Ext.W331	08.08.2013	Payment Vouchers			S.O. 1869. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s LIC of India and their workman, which was received by the Central Government on 08/09/2015.
Ext.W332	10.08.2013	Payment Vouchers			
Ext.W333	10.08.2013	Payment Vouchers			
Ext.W334	10.08.2013	Payment Vouchers			
Ext.W335	10.08.2013	Payment Vouchers			
Ext.W336	17.08.2013	Payment Vouchers			[No. L-17025/4/2015-IR (M)]
Ext.W337	17.08.2013	Payment Vouchers			NAVEEN KAPOOR, Under Secy.
Ext.W338	23.08.2013	Payment Vouchers			ANNEXURE
Ext.W339	23.08.2013	Payment Vouchers			BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI
Ext.W340	24.08.2013	Payment Vouchers			
Ext.W341	24.08.2013	Payment Vouchers			Thursday, the 27th August, 2015
Ext.W342	31.08.2013	Payment Vouchers			Present: K.P. PRASANNA KUMARI, Presiding Officer
Ext.W343	31.08.2013	Payment Vouchers			Industrial Dispute No. 82/2014
Ext.W344	23.05.2014	Reply filed by Respondent before conciliation			(In the matter of the dispute for adjudication under Sub-section 2A of Section-10 of the Industrial Disputes Act,

1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010). between the Management of LIC of India and their workman)

BETWEEN

Sri M. Sindhan : 1st Party/Petitioner

AND

1. The Zonal Manager : 2nd Party/1st

Life Insurance Respondent

Corporation of India

LIC Building, Anna Salai

Chennai-600002

2. The Divisional Manager : 2nd Party/2nd

Divisional Office-II Respondent

Life Insurance Corporation

of India

C-47, Anna Plaza, II Avenue,

Anna Nagar Chennai-600040

Appearance:

For the 1st Party/Petitioner M/s Balan Haridas,
Advocates

For the 2nd Party/1st & M/s C.K. Chandrasekhar,
2nd Management Advocate

AWARD

This is an Industrial Dispute taken for adjudication on the file under Sub-section 2A of Section-10 of the Industrial Disputes Act, 1947 (as amended by Act-24 of 2010 *w.e.f.* 15.09.2010.).

2. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner has passed SSLC. He was engaged by the Respondent to do the work of Office Assistant/Peon. He was doing the work of filing the papers, cleaning the office and also sundry work entrusted to him in the office of the Second Respondent. The petitioner initially joined the service of the Respondent on 26.10.2010. He was paid @ Rs. 160/- per day at the beginning. Later it was revised as Rs. 250/- and again as Rs. 360/-. Payment was made on weekly basis. The petitioner had been continuously working. He was paid wages by raising voucher under the head "Upkeep and Cleaning Material". This was done only to circumvent law. He was not given wages for weekly off and other holidays. The petitioner had worked for more than 480 days within a period of 24 calendar months. He is entitled to be made permanent under Section-3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act. The Respondent had been extracting work from the petitioner without conferring any benefits payable to a permanent employee. The petitioner had worked for more than 240 days continuously within a period of 12 calendar months. While so, his services had been terminated orally on 31.08.2013. The petitioner was

not issued any notice nor paid notice pay or compensation. Termination of the services of the petitioner would amount to retrenchment. In the absence of compliance with Section-25F of the ID Act the termination is *void abinitio*. The Respondent now cannot say that the appointment of the petitioner was not in terms of the LIC of India (Employment of Temporary Staff) Instructions. Anyhow the employment of the petitioner is protected by the provisions of ID Act and the same will override the so-called instructions. An order may be passed holding that termination of the service of the petitioner by the Respondent is illegal and consequently direct the Respondent to reinstate the petitioner with full backwages, continuity and all other attendant benefits.

3. The Respondents have filed Counter Statement contending as below:

The claim of the petitioner is not maintainable either on facts or on law. The petitioner was not engaged as Peon by the Respondents. He was engaged as Coolie to do certain petty works in the office. He was paid coolie charges on various dates from 01.10.2010 to 31.08.2013. The charges were paid for cleaning, dusting and upkeep works of the branch office depending upon the necessity. It is not correct to state that the employment was continuous and regular. The engagement of the petitioner was on need basis only and he was paid for the same. It is denied that the petitioner worked against a post for 480 days in 24 calendar months to claim permanency. Casual engagement on need based works cannot confer permanency. Any appointment in the Respondent Corporation can only be through a regular process of selection and appointment against regular posts. The termination of the petitioner was effected pursuant to the order of Apex Court wherein a scheme was framed and approved and those not fitting the scope of the scheme were directed to be relieved. So the claim of the petitioner is liable to be rejected. The petitioner is not entitled to invoke Section-25F of the ID act as the action of the Respondents is in conformity with law. In compliance of the order of the Supreme Court dated 18.01.2011 applications were invited from eligible temporary Class-IV employees working in LIC of India for more than 5 years as on 18.01.2011 and who had possessed minimum eligible qualification. As per the order of the Supreme Court those who have been engaged on need bases would cease to be in employment in compliance of the scheme. The petitioner was not eligible to apply as per the scheme of the Supreme Court. So he has no right to claim reinstatement or absorption. The question of reinstatement can arise only when regular employment has taken place as per LIC of India (Employment of Temporary Staff) Instructions. The provisions of the ID Act are not applicable to the petitioners with reference to matters covered by Section-48(2C) of the LIC Act. The petitioner is not entitled to any relief.

4. The petitioner has filed a rejoinder denying the allegations in the Counter Statement and also reiterating his case in the Counter Statement.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and also documents marked as Ext. W1 to Ext. W109 and Ext. M1 to Ext. M3.

6. The points for consideration are:

(i) Whether the termination of the petitioner by the Respondents from service is legal and justified?

(ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. The petitioner is seeking to set aside termination of his service by the Respondents and to direct the Respondents to reinstate him with backwages, continuity of service and other benefits.

8. The petitioner has claimed that he had joined the Office of the Second Respondent, a Divisional Office of the First Respondent as an Office Assistant/Peon on 26.10.2010 and had been continuously working in the office until he was terminated orally on 31.08.2013. It is alleged by the petitioner that his termination was in violation of Section-25F of the Industrial Disputes Act. It is also claimed by the petitioner that he had worked for more than 480 days within a period of 24 calendar months before he was terminated from service and he should have been made permanent under Section-3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act.

9. The Respondents had contended that the termination was effected pursuant to the order of the Apex Court wherein a scheme was framed and approved and those who do not fit in the scope of the scheme were directed to be relieved. The Respondent has denied the claim of the petitioner that he is entitled to permanent status under Section-3 of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act. The Respondents also denied the contention that termination is effected in violation of Section-25F of the Industrial Disputes Act. The Respondents have also advanced a case that petitioner's engagement was on a need based manner and he was only given the work of cleaning, dusting and upkeep works of the branch office and was never working as Peon as claimed by him.

10. The petitioner has given evidence himself and also produced Ext. W1 to Ext. W109 to prove his contention that he was continuously working in the Office of the Second Respondent. The payment vouchers marked as Ext. W1 to Ext. W109 are not disputed by the respondents. These are vouchers of different dates starting from 25.10.2010 to 03.09.2013. The petitioner has stated in his Proof Affidavit that his work in the Office of the Second Respondent was continuous in nature. This case of the

petitioner is supported by the vouchers produced. It could be seen on going through the vouchers that except for some occasional gaps the petitioner was working in the Office of the Second Respondent continuously. The vouchers show the period for which payments are made and some of them contains the number of days also. So in spite of some gaps it could be assumed that the petitioner was working in the Office of the Second Respondent from 25.10.2010.

11. What is the nature of work done by the petitioner? According to the Respondents they were only doing works such as cleaning dusting and other upkeep works. This is what is stated by MWs 1 and 2 in their Proof Affidavits also. However, during their cross-examination MW1 has stated that except for issuing forms the petitioner was doing all the work that were usually done by the Sub-Staff. MW1 has also stated that the petitioner was paid daily wages on weekly basis. Ext. W1 to Ext. W109 also show that almost on all occasions the petitioner was paid once in a week calculated on an amount fixed as wage per day. From this also it could be seen that the petitioner was working continuously with the Respondents for the period claimed. However, there is no case for the petitioner that he was working on a sanctioned post. He has not claimed also that he was working on temporary basis but only as a casual worker. In fact in the Claim Statement the demand of the petitioner is only for reinstatement and not for any regularization except for the claim of permanency under Section-3 of the Tamil Nadu Act. So it is clear that the petitioner was working on daily wages and not on any sanctioned post.

12. Before dealing with the other contentions of the petitioner the case that he is entitled for permanency under Section-3 of the Tamil Nadu Act can be considered. Section-3(1) of the Act states that notwithstanding anything contained in any law in force every workman who is in continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent. The condition for treating a workman to be continuous service is given in the next sub-section of Section-3. On going through Ext. W1- to Ext. W109 there could be no doubt that the petitioner must have been in service for a period of 480 days within a period of 24 calendar months in the Office of the Second Respondent.

13. The counsel for the petitioner has been seeking support from the decisions of the High Court of Madras to fortify his contention. He has referred to the decision in ELAYAPERUMAL VS. STATE BANK OF INDIA (Writ Appeal No. 1372 of 2006 decided on 08.01.2007). The Hon'ble High Court has held in this case that the provisions of the Permanent Status Act will apply to Banks including nationalized banks. Another decision referred to by the counsel for the petitioner is HINDUSTAN PETROLEUM CORPN. Ltd. VS. PRESIDING OFFICER, CGIT, CHENNAI reported in 2008 4 CTC 819 where it was held that the Act is

applicable to HINDUSTAN PETROLEUM CORPORATION LTD. ANOTHER decision relied upon is LAKSHMI VS. THE CHIEF ENGINEER, TNEB reported in 2012 3 LLN 681 where it was held that the concerned worker would have been entitled to the benefit of conferment of permanent status under TNEB. It is pointed out by the counsel for the Respondents that the second decision referred to has been taken to the Apex Court and has been compromised. In the last decision referred to Tamil Nadu Electricity Board being a party, the Permanent Status Act very well apply to the same. The operation of the other decision referred to has been stayed by the Apex Court and the matter is still pending. According to the counsel for the petitioner even if stay has been granted the dictum laid down by the High Court can be applied to the present case. I am not able to accept this argument of the counsel. When operation of the decision is stayed, it could not be acted upon and there is no question of the principle laid down in the decision being applied. So, the contention of the petitioner that he is entitled to the benefit of the Section-3 of the Permanent Status Act of the Tamil Nadu could not be accepted.

14. It is not disputed by the Respondents that the petitioner will be a workman as defined in Section-2(k) of the ID Act but for inapplicability of the Act itself. It is also admitted on behalf of the Respondents that the termination of the petitioner was done without complying with Section-25F of the ID Act. So there is no necessity to refer to various decisions relied upon on behalf of the petitioner in this respect. The counsel for the Respondents has not disputed the legal position that the termination in violation of Section-25F of the Act will be *void ab initio*.

15. The contention on behalf of the Respondents that the termination of the petitioner was in lieu of the decision of the Apex Court wherein the scheme framed was approved by the Apex Court and those who did not get selected as per the scheme ceased to be in service. The order of the Apex Court relied upon by the Respondents has been produced and marked as Ext. M1. One of the appellants in the several civil appeals decided by Ext. M1 order is the LIC of India and the Respondents are those who were working in the Corporation and has claimed reinstatement or permanency. While this case was pending the Corporation had framed a Scheme as below:

One time limited examination for those temporary persons who are working in LIC of India for more than 5 years and who had possessed minimum eligible qualification and age as prescribed at the relevant time of their entry into the LIC of India would be considered. For this purpose LIC of India would hold a limited written examination which will be in the vernacular language with a limited syllabus which would be announced in advance.

Such of those temporary employees who do not apply and/or not successful shall cease to be in

employment. It is cleared that those temporary persons who are not governed under these submissions shall also cease to be in employment.

The scheme having been acceptable to the other side the appeals were disposed by the Apex Court with the direction that the Respondents shall absorb employees in terms of the scheme.

16. The case of the Respondents is that application was called for from the temporary workers, a written examination was conducted and those who were found eligible were given permanent appointment in the Corporation. Those other persons who did not fit in the scheme were turned out of service on 31.08.2013. According to the Respondents the petitioner who was not eligible to apply for the test and had not made any application had ceased to be in employment consequent to the scheme approved by the Apex Court. It is the case of the Respondents that the petitioner who had ceased to be an employee of the Corporation is now not entitled to claim reinstatement.

17. The counsel for the petitioner has been mainly relying upon the decision of the Apex Court in TAMIL NADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION VS. LIC OF INDIA AND OTHERS in Civil Appeal No. 6951/2009 and other appeals in this respect. In this the Apex Court has found that the temporary employees are entitled to reinstatement and permanency. In the above decision the Apex Court had found that even though the Corporation had entered into a compromise with some of the workers it will not affect the right of the workmen concerned to claim relief under the earlier national awards existing since those awards were not set aside even after the compromise. It has also been observed that in any case the compromise will not affect the rights of the parties to claim statutory benefits under the Industrial Disputes Act.

18. The counsel for the Respondents has pointed out the Civil Appeal Nos. 6951/2009 and connected appeals were de-tagged by the Apex Court while considering Ext. M1 cases since the issues involved in those cases were different from the cases considered in Ext. M1 order. On going through Ext. M1 it could be seen that such a representation was made and it is accordingly those appeals were de-tagged. The workmen involved in the above appeals were discharging work of perennial nature against permanent posts. It could be seen from the decision that there was an earlier award applicable to the parties and a compromise was entered into by the Corporation with some of the Unions while a case was pending. In Civil Appeal Nos. 6951/2009 and other cases it has been held that the direction given to the Corporation as per the Award regarding other workmen who were parties to the case and had not entered into a compromise has not been substituted by the terms and conditions of the compromise. It is pointed out by the counsel for the

Respondents that is in this background the decision has been rendered.

19. The counsel for the Respondents has referred to two earlier decisions of the Apex Court that has held that the provisions of the ID Act is not applicable to the workers of the Corporation. Reference was made to the decision in *M. Venugopal VS. The Divisional Manager, LIC of India* reported in 1994 2 SCC 323. In this the Apex Court has considered Sub-section 2(C) of Section-48 which has been incorporated in LIC Act by amendment, and other provisions. Section-48 of the Act provides that the Central Government may make rules to carry out the purposes of the Act. The rules may provide for terms and conditions of the service of the employees. As per Clause (cc) the regulations and other provisions in force immediately before the commencement of the Amendment Act with respect to the terms and conditions of the service of the employees shall be deemed to be the rules made under Clause (cc) as per Clause-2(A). Clause-2C of the same section states that the provisions of Clause (cc) and Sub-section 2B and any rules made there under shall have effect notwithstanding any judgment, decree or order of the any Court, Tribunal or other authority and notwithstanding anything contained in the Industrial Disputes Act or any other law, agreement, settlement, award or other instrument. Referring to these provisions it was held in *Venugopal's case* referred to above that the wisdom of the legislature in extending the protection of the provisions of Industrial Disputes Act or denying the same cannot be judged by the Courts unless any such step is held to be violative of any of the provisions of the Constitution. After the amendment introduced in Section-48 of the employees of the Corporation shall not be entitled to protection to which they were entitled before coming into force of the amendment, though till then it was upto them to impose the rights or remedies in terms of the regulation so framed under the Corporation Act or in accordance with the provisions of the Industrial Disputes Act, it has been held. The counsel for the Respondents has also referred to the decision *A. V. NACHANE VS. UNION OF INDIA* reported in AIR 1982 SC 1126 in this respect. In the above case it has been held that Section-48 (2C) read with Section-48 (2cc) authorized the Central Government to make rules to carry out the purpose of the Act notwithstanding the Industrial Disputes Act or any other law, which meant that in respect of the matters covered by the rules, the provisions of the Industrial Disputes Act or any other law will not be operative. The grievance raised in the case that excluding the employees of the Corporation from the purview of Industrial Disputes Act amounted to discrimination against them and as such the provisions of the amending act were violative of Article-14 of the Constitution were also rejected by the Apex Court. The counsel has also referred to the decision of the Apex Court in *LIC OF INDIA VS. ASHA RAMCHAND AMBEDKAR* reported in 1994 2 SCC 718 where it was held that the

instructions issued by the Chairman of the Corporation exercising his powers under the regulations framed under the Act were statutory in character and they have the force of law. Based on the decision of the Apex Court after acceptance of the scheme the Corporation has issued several instructions on the basis of which the petitioner and such others had ceased to be in employment. It has been argued that the instructions on the basis of which the petitioner and such others had ceased to be in employment. It had been argued that the instructions are not statutory in character though the regulations are. It was in this context the above decision was relied upon. Thus the three bench decision of the Apex court in the case earlier referred to had held that Industrial Disputes Act will not apply to those employees coming under the LIC Act and its rules and regulations. The recent decision of the Apex Court in favour of the temporary employees of the Corporation were rendered in the context already referred to. Those employees were fighting their case even while the cases under Ext. M1 were pending and those were treated separately and decided separately in the background referred to above. So the decision in the above case could not be applied to the facts of the present case. The other decisions referred to by the counsel for the petitioner are all those in which the provisions of the ID Act are applicable and need not be referred to.

20. I have already stated that there is no case for the Respondents that any notice, notice pay or compensation were given as required under Section-25F of the ID Act when the petitioner was terminated. The counsel for the Respondents has pointed out that in the absence of application of Industrial Disputes Act there is no necessity to comply with Section-25F of the Act also. He has referred to the decision of the High Court of Kerala in *LIC OF INDIA VS. USHA KUMARI AND OTHERS* in Writ Appeal 2362/2009 in this respect. The High Court has referred to the decisions of the Apex Court wherein the provisions of the Industrial Disputes Act were found inapplicable to the employees of the Life Insurance Corporation and has held that the provisions contained in Section-48(2C) of the LIC Act would override the Industrial Disputes Act and so termination of the employees cannot amount to retrenchment as provided under Section-termination of the employees cannot amount to retrenchment as provided under Section-2(oo) of the Industrial Disputes Act attracting Section-25F of the Act. It was a natural consequence, the Apex Court having found that Industrial Disputes Act is not applicable to those coming under the Life Insurance Corporation Act. The being so, the petitioner would not be entitled even to the benefit under Section-25F of the Act. The termination of the petitioner was the consequence of the order of the Apex Court accepting the scheme for providing employment to eligible workmen who were working as temporary employees of the Corporation. Those who did not fit in with the scope had to meet the

consequence. The petitioner had not completed 5 years as daily wager in the Corporation as contemplated in the scheme and he was not eligible to apply for the written examination. It is accordingly he happened to be eliminated and ceased to be in employment. So the petitioner will not be entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri M. Sindhan

For the 2nd Party/1st & 2nd Management : MW1, Sri B. Seetharaman
: MW2, Sri S. Shrinivas
Purushan

On the side of the Petitioner

Ex.No. Date Description

Ex. W1 25.10.2010 Payment Vouchers

Ex. W2 10.11.2010 Payment Vouchers

Ex. W3 01.11.2010 Payment Vouchers

Ex. W4 31.12.2010 Payment Vouchers

Ex. W5 12.01.2011 Payment Vouchers

Ex. W6 14.01.2011 Payment Vouchers

Ex. W7 24.01.2011 Payment Vouchers

Ex. W8 31.01.2011 Payment Vouchers

Ex. W9 07.02.2011 Payment Vouchers

Ex. W10 14.02.2011 Payment Vouchers

Ex. W11 21.02.2011 Payment Vouchers

Ex. W12 01.03.2011 Payment Vouchers

Ex. W13 07.03.2011 Payment Vouchers

Ex. W14 12.03.2011 Payment Vouchers

Ex. W15 21.03.2011 Payment Vouchers

Ex. W16 28.03.2011 Payment Vouchers

Ex. W17 11.04.2011 Payment Vouchers

Ex. W18 25.04.2011 Payment Vouchers

Ex. W19 02.05.2011 Payment Vouchers

Ex. W20 09.05.2011 Payment Vouchers

Ex. W21 14.05.2011 Payment Vouchers

Ex. W22 23.05.2011 Payment Vouchers

Ex. W23 02.06.2011 Payment Vouchers

Ex.W24 06.06.2011 Payment Vouchers

Ex.W25 15.06.2011 Payment Vouchers

Ex.W26 20.06.2011 Payment Vouchers

Ex.W27 27.06.2011 Payment Vouchers

Ex.W28 04.07.2011 Payment Vouchers

Ex.W29 11.07.2011 Payment Vouchers

Ex.W30 19.07.2011 Payment Vouchers

Ex.W31 25.07.2011 Payment Vouchers

Ex.W32 01.08.2011 Payment Vouchers

Ex.W33 08.08.2011 Payment Vouchers

Ex.W34 13.08.2011 Payment Vouchers

Ex.W35 29.08.2011 Payment Vouchers

Ex.W36 22.08.2011 Payment Vouchers

Ex.W37 12.09.2011 Payment Vouchers

Ex.W38 19.09.2011 Payment Vouchers

Ex.W39 26.09.2011 Payment Vouchers

Ex.W40 03.10.2011 Payment Vouchers

Ex.W41 10.10.2011 Payment Vouchers

Ex.W42 15.10.2011 Payment Vouchers

Ex.W43 31.10.2011 Payment Vouchers

Ex.W44 05.11.2011 Payment Vouchers

Ex.W45 14.11.2011 Payment Vouchers

Ex.W46 21.11.2011 Payment Vouchers

Ex.W47 05.12.2011 Payment Vouchers

Ex.W48 12.12.2011 Payment Vouchers

Ex.W49 26.12.2011 Payment Vouchers

Ex.W50 02.01.2012 Payment Vouchers

Ex.W51 09.01.2012 Payment Vouchers

Ex.W52 18.01.2012 Payment Vouchers

Ex.W53 23.01.2012 Payment Vouchers

Ex.W54 31.01.2012 Payment Vouchers

Ex.W55 07.02.2012 Payment Vouchers

Ex.W56 13.02.2012 Payment Vouchers

Ex.W57 20.02.2012 Payment Vouchers

Ex.W58 02.04.2012 Payment Vouchers

Ex.W59 05.03.2012 Payment Vouchers

Ex.W60 09.04.2012 Payment Vouchers

Ex.W61 23.04.2012 Payment Vouchers

Ex.W62 14.05.2012 Payment Vouchers

Ex.W63 21.05.2012 Payment Vouchers

Ex.W64	28.05.2012	Payment Vouchers
Ex.W65	18.06.2012	Payment Vouchers
Ex.W66	27.06.2012	Payment Vouchers
Ex.W67	30.06.2012	Payment Vouchers
Ex.W68	09.07.2012	Payment Vouchers
Ex.W69	16.07.2012	Payment Vouchers
Ex.W70	23.07.2012	Payment Vouchers
Ex.W71	30.07.2012	Payment Vouchers
Ex.W72	06.08.2012	Payment Vouchers
Ex.W73	21.08.2012	Payment Vouchers
Ex.W74	28.08.2012	Payment Vouchers
Ex.W75	01.09.2012	Payment Vouchers
Ex.W76	15.09.2012	Payment Vouchers
Ex.W77	24.09.2012	Payment Vouchers
Ex.W78	29.09.2012	Payment Vouchers
Ex.W79	22.10.2012	Payment Vouchers
Ex.W80	29.12.2012	Payment Vouchers
Ex.W81	05.11.2012	Payment Vouchers
Ex.W82	12.11.2012	Payment Vouchers
Ex.W83	19.11.2012	Payment Vouchers
Ex.W84	26.11.2012	Payment Vouchers
Ex.W85	03.12.2012	Payment Vouchers
Ex.W86	22.12.2012	Payment Vouchers
Ex.W87	05.01.2013	Payment Vouchers
Ex.W88	05.01.2013	Payment Vouchers
Ex.W89	07.01.2013	Payment Vouchers
Ex.W90	21.01.2013	Payment Vouchers
Ex.W91	29.01.2013	Payment Vouchers
Ex.W92	18.02.2013	Payment Vouchers
Ex.W93	05.02.2013	Payment Vouchers
Ex.W94	01.03.2013	Payment Vouchers
Ex.W95	09.03.2013	Payment Vouchers
Ex.W96	16.03.2013	Payment Vouchers
Ex.W97	25.03.2013	Payment Vouchers
Ex.W98	01.04.2013	Payment Vouchers
Ex.W99	15.04.2013	Payment Vouchers
Ex.W100	22.04.2013	Payment Vouchers
Ex.W101	02.05.2013	Payment Vouchers

Ex.W102	20.05.2013	Payment Vouchers
Ex.W103	18.06.2013	Payment Vouchers
Ex.W104	15.07.2013	Payment Vouchers
Ex.W105	30.07.2013	Payment Vouchers
Ex.W106	02.08.2013	Payment Vouchers
Ex.W107	05.08.2013	Payment Vouchers
Ex.W108	14.08.2013	Payment Vouchers
Ex.W109	03.09.2013	Payment Vouchers

On the side of the Respondent:

Ex.No.	Date	Description
Ext.M1	18.01.2011	Hon'ble Supreme Court Order dated 18.01.2011 in the matter of LIC of India and Another Vs. D.V. Anil Kumar and Etc. min Civil Appeal No. 953968 of 2005.
Ext.M2	16.07.2014	Judgment of Hon'ble High Court of Kerala in WA No. 2362/2009 in OP 39055/2002 in the matter of LIC of India Vs. Ushakumari and Others.
Ext.M3	—	Section 48 (1&2) of the Life Insurance Corporation Act, 1956

नई दिल्ली, 15 सितम्बर, 2015

का०आ० 1870.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स बोकारो स्टील प्लांट (सेल) के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 75/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/09/2015 को प्राप्त हुआ था।

[सं० एल-29012/4/2014-आई आर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 15th September, 2015

S.O. 1870.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2014) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bokaro Steel Plant (SAIL) and their workman, which was received by the Central Government on 08/09/2015.

[No. L-29012/4/2014-IR (M)]

NAVEEN KAPOOR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.**

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act., 1947.

Reference No. 75 of 2014

Employer in relation to the management of
Bokaro Steel Plant (SAIL).

And

Their workman.

PRESENT:

Sri R.K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate.

For the Workman : Sri Pintu Mondal, Rep

State:- Jharkhand Industry: Coal.

Dated 6/7/2015

AWARD

By order No. L-29012/4/2014 IR-(M), dated 09/07/2014, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bokaro Steel Plant (SAIL) in dismissing Sri Jishu Mahto from the service vide order dated 17.12.1998 is fair and justified? If not, to what relief concerned workman is entitled?"

2. The case is received from the Ministry of Labour on 21.07.2014. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 13.08.2014. And the management files their written statement-cum-rejoinder on 19.11.2014.

3. The point involved in the reference is that the workman has been dismissed from his services for long absenteeism.

4. During preliminary hearing it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 17 years. It is felt to give another chance to the workman to service.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. But the workman be kept under probation for a period of two year and his performance report be given to the under

signed. Therefore the question of back wages does not arise at all.

This is my award

R.K. SARAN, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2015

का०आ० 1871.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 28/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.09.2015 को प्राप्त हुआ था।

[सं० एल-40011/26/2002-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th September, 2015

S.O. 1871.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 28/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation of the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 15/09/2015.

[No. L-40011/26/2002-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 26th August, 2015

Present: K. P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 28/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bharat Sanchar Nigam Ltd. & two Others and their workman)

BETWEEN

The Circle Secretary : 1st Party/Petitioner Union
BSNL Employees Union
3/71, 4th Street,
Raghava Nagar
Madipakkam
Chennai-600091

AND

1. The General Manager : 2nd Party/1st Respondent
Bharat Sanchar
Nigam Ltd.
Kumbakonam
2. The Chairman & Managing : 2nd Party/
Director Bharat Sanchar 2nd Respondent
Nigam Ltd. Sanchar Bhawan
New Delhi-110001
3. The Chief General Manager : 2nd Party/
Telecom Tamil Nadu Circle 3rd Respondent
Anna Salai
Chennai-600002

Appearance:

- For the 1st Party/ : M/s K.M. Ramesh,
Petitioner Union : Advocates
- For the 2nd Party/1st, : Sri. D. Simon,
2nd & 3rd Management Advocate

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-40011/26/2002-IR (DU) dated 07.01.2003 and Corrigendum dated 01.01.2004 referred the following industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the non-absorption of casual employees as per annexure as claimed by the BSNL Employees Union is legal and justified? if not, to what relief the workmen are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 28/2003 and issued notice to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The petitioner has filed claim Statement seeking absorption of the employees named in the annexure to the reference in the service of the BSNL. The Respondents have filed Counter Statement resisting the claim of the petitioner.

4. When the case came up for evidence today, the counsel for the petitioner has endorsed stating that he is not adducing any evidence to substantiate the claim of the petitioner and that the dispute can be closed. In the absence of any material there could not be an adjudication of the dispute on merits. The petitioner having failed to adduce any evidence in support of the claim the reference is only to be answered against the petitioner.

In the result the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner Union : None
For the 2nd Party/ 1st, 2nd & : None
3rd Management:

Documents Marked;**On the Petitioner's side**

Ext.No.	Date	Description
	Nil	

On the Management's side

Ext.No.	Date	Description
	Nil	

नई दिल्ली, 16 सितम्बर, 2015

का०आ० 1872.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 383/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15/09/2015 को प्राप्त हुआ था।

[सं० एल-40011/49/2003-आई आर (डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th September, 2015

S.O. 1872.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 383/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employment in relation to the management of Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 15/09/2015.

[No. L-40011/49/2003-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 26th August, 2015

Present: K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 383/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of Bharat Sanchar Nigam Ltd. & two Other and their workman)

BETWEEN

The Circle Secretary : 1st Party/Petitioner Union
BSNL Employees Union
3/71, 4th Street,
Raghava Nagar
Madipakkam
Chennai-600091

AND

1. Chief General Manager : 2nd Party/1st Respondent
BSNL, Tamilnadu Circle,
Anna Salai
Chennai-600002
2. The General Manager : 2nd Party/2nd Respondent
Telecommunications
Kancheepuram District,
29 Eldams Road
Chennai-600018
3. The Chairman and Managing : 2nd Party/
Director Bharat Sanchar : 3rd Respondent
Nigam Ltd.,
Sanchar Bhawan
New Delhi-110001

Appearance:

For the 1st Party/ : M/s K.M. Ramesh,
Petitioner Union : Advocates

For the 2nd Party/1st, 2nd & 3rd Management : Sri D. Simon, Advocate

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-40011/49/2003-IR (DU) dated 09.07.2004 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Telecom Department, BSNL, Chennai in non-regularizing/absorbing the services of the contract labourers numbering seventeen viz. S/Sri G. Ponnu Kalathi, S. Samuel, P. Dili Babu, V. Krishnan, N. Bather, N. Vivekan, E. Elangovan, B. Venkatesan, Ramesh, M. Meganathan, M. Kannappan, R. Dili Babu, R. Parthasarathy, A. Dhanasekaran, A. Gnana Velu,

Ms. Maheswari and Rani is legal and justified and if not, to what relief the workmen/contract labourers are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 383/2004 and issued notice to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The petitioner has filed Claim Statement seeking absorption of the employees named in the annexure to the reference in the service of the BSNL. The Respondents have filed Counter Statement resisting the claim of the petitioner.

4. When the case came up for evidence today, the counsel for the petitioner has endorsed stating that he is not adducing any evidence to substantiate the claim of the petitioner and that the dispute can be closed. In the absence of any material there could not be an adjudication of the dispute on merits. The petitioner having failed to adduce any evidence in support of the claim the reference is only to be answered against the petitioner.

In the result the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/ : None
Petitioner Union

For the 2nd Party/1st, 2nd : None
& 3rd Management

Documents Marked:**On the Petitioner's side**

Ext. No.	Date	Description
	Nil	

On the Management's side

Ext. No.	Date	Description
	Nil	

नई दिल्ली, 16 सितम्बर, 2015

का०आ० 1873.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं० 24/2003 एवं 25/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 15/09/2015 को प्राप्त हुआ था।

[सं० एल-40011/22/2002-आई आर (डीयू)]

सं० एल-40011/23/2002-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th September, 2015

S.O.1873.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 24/2003 & 25/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government of 15/09/2015.

[No.L-40011/22/2002-IR(DU),

No.L-40011/23/2002-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Wednesday, the 26th August, 2015

PRESENT: K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 24/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bharat Sanchar Nigam Ltd., & two Others and their workman)

BETWEEN

The Circle Secretary : 1st Party/Petitioner Union
BSNL Employees Union
3/71, 4th Street,
Raghava Nagar
Madipakkam
Chennai-600091

AND

1. The General Manager : 2nd Party/1st Respondent
Bharat Sanchar
Nigam Ltd.
Kumbakonam
2. The Chairman & Managing : 2nd Party/
Director Bharat : 2nd Respondent
Sanchar Nigam. Ltd.
Sanchar Bhawan
New Delhi-110001
3. The Chief General Manager : 2nd Party/
Telecom Tamilnadu Circle : 3rd Respondent
Anna Salai
Chennai-600002

Appearance:

For the 1st Party/ : M/s K.M. Ramesh,
Petitioner Union : Advocates
For the 2nd party/1st, 2nd & : Shri D. Simon, Advocate
3rd Management

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-40011/22/2002-1R (DU) dated 07.01.2003 and Corrigendum dated 01.01.2004 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the non-absorption of casual employees as per annexure as claimed by the BSNL Employees Union is legal and justified? If not, to what relief the workman are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 24/2003 and issued notice to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The petitioner has filed Claim Statement seeking absorption of the employees named in the annexure to the reference in the service of the BSNL. The Respondents have filed Counter Statement resisting the claim of the petitioner.

4. When the case came up for evidence today, the counsel for the petitioner has endorsed stating that he is not adducing any evidence to substantiate the claim of the petitioner and that the dispute can be closed. In the absence of any material there could not be an adjudication of the dispute on merits. The petitioner having failed to adduce any evidence in support of the claim the reference is only to be answered against the petitioner.

In the result the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMAR, Presiding Officer

Witnesses Examined

For the 1st Party/ : None
Petitioner Union
For the 1st Party/1st, 2nd & : None
3rd Management

Documents Marked:

On the Petitioner's side

Ext.No.	Date	Description
		Nil

On the Management's side

Ext.No.	Date	Description
		Nil

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 26th August, 2015

PRESENT: K.P. PRASANNA KUMARI,
Presiding Officer**Industrial Dispute No. 25/2003**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bharat Sanchar Nigam Ltd. & Two Others and their workman)

BETWEEN

The Circle Secretary : 1st Party/Petitioner Union
BSNL Employees Union
3/71, 4th Street,
Raghava Nagar
Madipakkam
Chennai-600091

AND

1. The General Manager : 2nd Party/1st Respondent
Bharat Sanchar
Nigam Ltd.
Kumbakonam
2. The Chairman & Managing : 2nd Party/
Director Bharat : 2nd Respondent
Sanchar Nigam Ltd.
Sanchar Bhawan
New Delhi-1100001
3. The Chief General Manager : 2nd Party/
Telecom Tamilnadu Circle : 3rd Respondent
Anna Salai
Chennai-600002

Appearance:

For the 1st Party/ : M/s K.M. Ramesh,
Petitioner Union Advocates
For the 2nd party/1st, 2nd & : Shri D. Simon,
3rd Management Advocate

AWARD

The Central Government, Ministry of Labour & Employment, *vide* its Order No. L-40011/23/2002-1R (DU) dated 07.01.2003 and Corrigendum dated 01.01.2004 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the non-absorption of casual employees as per annexure as claimed by the BSNL Employees Union is legal and justified? If not, to what relief the workman are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 25/2003 and issued notice to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The petitioner has filed Claim Statement seeking absorption of the employees named in the annexure to the reference in the service of the BSNL. The Respondents have filed Counter Statement resisting the claim of the petitioner.

4. When the case came up for evidence today, the counsel for the petitioner has endorsed stating that he is not adducing any evidence to substantiate the claim of the petitioner and that the dispute can be closed. In the absence of any material there could not be an adjudication of the dispute on merits. The petitioner having failed to adduce any evidence in support of the claim the reference is only to be answered against the petitioner.

In the result the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMAR, Presiding Officer

Witnesses Examined

For the 1st Party/ : None
Petitioner Union

For the 1st Party/1st, 2nd & : None
3rd Management

**Documents Marked:
On the Petitioner's side**

Ext.No.	Date	Description
	Nil	

On the Management's side

Ext.No.	Date	Description
	Nil	